

93-1225

M. Nichols
cc: Janine
Mannito

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES
Office of the Secretary
Post Office Box 2063
Harrisburg, PA 17105-2063

December 10, 1993

Marcia

Ms. Mary Nichols
Assistant Administrator
Air and Radiation
Environmental Protection Agency
401 M Street SW
Mail Stop 6101
Washington, DC 20460

RECEIVED
Air & Radiation Programs
Branch (3AT10)

DEC 29 1993

REGION III

For
Mary received
this on Friday 12/17
P. K.

Dear Ms. Nichols:

I am hereby requesting a meeting with you for the purpose of discussing Philadelphia's severe ozone classification. The attendees will be Catherine W. Cowan, Deputy Secretary for Air and Waste Management; James Salvaggio, Director, Bureau of Air Quality Control; Keith Welks, Chief Counsel; members of PenJerDel, a Philadelphia area business group; and myself. The dates we are available are December 29 and 30.

Please contact Anita Thompson from Catherine Cowan's staff at (717) 772-2724 to arrange the meeting.

Sincerely,

Arthur A. Davis
Secretary

Department of Environmental Resources

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U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C.

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

P.O. Box 8468
Harrisburg, PA 17105-8468

September 21, 1993

Bureau of Air Quality Control

717-787-9702

Ms. Marcia Spink
Chief, Air Programs Branch
U.S. EPA
841 Chestnut Building
Philadelphia, PA 19107

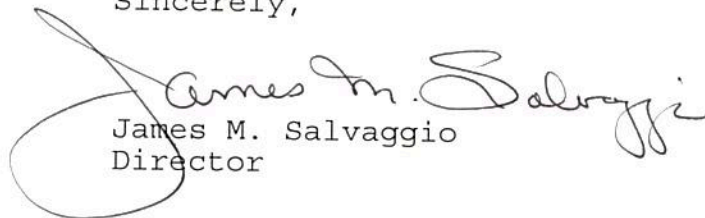
Dear Ms. Spink:

I have enclosed a copy of correspondence we received from the Penjerdel Council regarding the classification of the Philadelphia area as a severe nonattainment area. This issue has arisen in the context of requirements for Employer Trip Reduction regulations for that area. The correspondence includes descriptions of studies performed by Environmental Resources Management (ERM) regarding classification and Systems Applications International (SAI) regarding timeframes for attainment.

We would appreciate your analysis of whether the Penjerdel information justifies a reclassification to a "serious" or "moderate" attainment status, as quickly as possible. The Environmental Quality Board, DER's rulemaking body, approved the regulations on September 21. The Independent Regulatory Review Commission (IRRC) must schedule a meeting within 30 days to act upon the regulations. EPA's analysis of the Penjerdel information would be of valuable assistance to the Commission.

Thank you for your help.

Sincerely,


James M. Salvaggio
Director

Enclosure



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ENV. RESOURCE
SECRETARY'S OFFICE

THE PENJERDEL COUNCIL



September 16, 1993

Honorable Arthur A. Davis
Chairman
Secretary of Environmental Resources
9th Floor, Fulton Building
Third and Locust Streets
Harrisburg, PA 17120

Dear Secretary ^{act} Davis:

On September 21st, the Environmental Quality Board will vote on the final rule requiring employers to implement the Employer Trip Reduction Program (ETRP) in the Philadelphia Consolidated Metropolitan Statistical Area.

Over the past several months, The PENJERDEL Council and a coalition of Delaware Valley employers has commissioned two technical studies to examine the status of ozone emissions in the Philadelphia area. In light of our findings, we believe it is important that you be brought up-to-date with the most recent information. We enclose summaries of both studies herein.

The coalition is calling for a review of the region's "severe" non-attainment classification because we believe it to be erroneous. While the coalition strongly supports effective measures to improve air quality, there is compelling evidence that the region should be classified no higher than "serious" non-attainment. In that case, the ETRP would not be required by the Clean Air Act.

The historical statistical analysis confirms that the fourth highest reading over the three year test period, the so-called "design value", was indeed a statistical outlier. The analysis proves that the 11 September 1989 reading, when checked against both internal consistency and regional reference points, is totally unreliable data. It is important to note that if the 11 September 1989 data is not used, the region's non-attainment status drops precipitously from "severe" to "serious".

Thus far, in the hot summer of 1993, the exceedances experienced in the region would support a "marginal" classification (as noted on Table 1 enclosed).

Should our coalition achieve its reclassification goals, Clean Air Act regulations would require the Philadelphia area to achieve attainment with NAAQS standards by 1999, instead of 2005. The trend analysis, developed by the preeminent air quality firm, Systems Applications International, shows that the region would indeed reach that goal without implementation of the Employer Trip Reduction Program. It is for these reasons that we ask your support in our efforts to attain reclassification. The employers and employees of the Delaware Valley are making significant progress toward compliance. We hope that such progress can continue unabated, without threats to the economic development of the region or the personal privacy of the workforce.

Sincerely,

Henry H. Reichner, Jr.
Senior Director

THE PENJERDEL COUNCIL



The PENJERDEL Council

A STUDY OF THE ERRONEOUS CLASSIFICATION
OF THE PHILADELPHIA CONSOLIDATED METROPOLITAN STATISTICAL
AREA AS A "SEVERE" NONATTAINMENT AREA
UNDER THE CLEAN AIR ACT AMENDMENTS OF 1990

OR

IS THIS TRIP NECESSARY?

September 16, 1993

EXECUTIVE SUMMARY

The Employer Trip Reduction Program ("ETRP") is one of the many tools which the Clean Air Act requires in "polluted" or nonattainment areas so that they can meet Clean Air Act Standards by the date set forth by the Act. States are required to impose an ETRP based on the level of pollution, in particular, areas classified by the Act and EPA's formulas as either "severe" or "extreme". Given the cost, financially and otherwise, of ETRPs, it follows that regulatory agencies should be very sure that any area in which the ETRP is required is in fact properly classified as "severe" under Clean Air Act definitions, and that ETRP is truly necessary to meet Clean Air Act Standards.

The U.S. Environmental Protection Agency (EPA) created a standard for ozone of 0.12 parts per million (ppm). Any reading above that would be considered as nonattainment. The classification was broken down into six sub-classifications ranging from marginal to extreme. Depending on the degree of attainment, a date was established to achieve the standard, with the region having the worst air quality given the longest period to reach compliance. Classification was based on a Design Value, which is the fourth highest reading over a three year period. The following chart illustrates the classifications and their attainment dates:

<u>Classification</u> <u>Date</u>	<u>Design Value</u>	<u>Attainment</u>
Marginal	.121 to .138	11/15/93
Moderate	.138 to .160	11/15/96
Serious	.160 to .180	11/15/99
Severe 15	.180 to .189	11/15/05
Severe 17	.190 to .280	11/15/07
Extreme	Above .280	11/15/10

The classification for the Philadelphia Metropolitan Statistical Area (CMSA) is currently severe nonattainment based on a reading of .187 at Chester, Pennsylvania on 11 September 1989.

The PENJERDEL Council has conducted an investigation to determine whether this classification is erroneous in light of all available data. In this investigation, PENJERDEL commissioned two studies.

The first study conducted a technical assessment of the methodology and processes established by the EPA in determining the design value for ozone in the region. The study was conducted by Environmental Resources Management, Inc. (ERM). ERM was commissioned to compile and analyze the validity of the data

underlying EPA's Philadelphia design value. ERM concluded that the EPA design value for the region is flawed and that the 0.187ppm ozone reading in Chester, Pennsylvania on September 11, 1989, is less than 0.1% reliable.

The second study was conducted by Systems Applications International (SAI). The study set out to determine whether the Philadelphia CMSA could attain the 0.12ppm standard by 1999, as required under a "serious" classification. It provides a detailed emission trend projection based on emission data since 1980. The study also made projections on the assumptions of the adoption of control requirements called for in the Clean Air Act. The report concluded that the Philadelphia area could attain the ozone standard by 1999.

In 1991, EPA rejected a request from the Governor of Pennsylvania for a so-called "bump-down" to a "serious" nonattainment classification under section 181(a)(4) of the Clean Air Act. The EPA rejected the request on the basis that it would be difficult for the Philadelphia area to reach attainment by 1999.

SAI's analysis of emission trends demonstrates that the EPA was mistaken. Given the clear trends in Philadelphia air quality, coupled with the regulations required by the Clean Air Act Amendments, there is an 81% probability that the region can reach attainment by 1999 without the imposition of an ETRP.

Voluntary emission programs not included in the SAI Study, such as the "green lights" program and voluntary programs sponsored by the PENJERDEL Council, including the banking of emission program, will greatly assist in both the amount and timing of emission reductions. These reductions will far outweigh any benefits which might be achieved through ETRP without any corresponding cost.

The trends outlined in the SAI report are supported by the experience this summer. While this unusually hot summer (which rivaled the summer of 1988) produced 28 exceedances of the ozone standard, only five reached the "moderate" range. The design value for 1993 thus far is .136ppm "marginal" nonattainment classification as represented by both the Lums Pond, Delaware and Ancora, New Jersey monitoring stations.

Pennsylvania officials should not impose an ETRP requirement on Southeastern Pennsylvania because it is not required to meet Clean Air Act Standards. At the very least, when any such program is submitted to EPA for approval, Pennsylvania officials should request EPA to reclassify the Philadelphia CMSA as a "serious" nonattainment area and to disapprove the ETRP program if such a reclassification is granted.

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Executive Summary

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I. Introduction

The PENJERDEL Council, an organization of Pennsylvania, New Jersey and Delaware employers, has prepared this report ("Report"). The objectives of the work presented in the Report were: (1) to determine the validity of the data underlying the EPA's classification of the Philadelphia CMSA as "Severe" ozone non-attainment status; and, (2) to determine whether the Philadelphia CMSA could timely reach ozone attainment under the Clean Air Act (the "Act") if the Philadelphia CMSA were reclassified as a "serious" non-attainment area.

To accomplish these objectives, PENJERDEL commissioned two technical studies. The first, conducted by Environmental Resources Management (ERM), examines the technical validity of the data underlying the Philadelphia CMSA classification as a "Severe" non-attainment area (the "ERM Study"). The ERM Study conclusively shows that one data point underlying that classification is invalid and should be rejected. Upon rejecting that data, the Philadelphia CMSA is properly a "Serious" non-attainment area and should be reclassified.

The second study was conducted by Systems Applications International (SAI). It was performed in order to determine whether air quality trends, including expected emissions reductions required of a "Serious" non-attainment area under the Act, demonstrate that the Philadelphia CMSA can reach ozone attainment by 1999, as required under the Act (the "SAI Study"). The SAI Study shows that the Philadelphia CMSA can be reasonably expected to reach attainment by 1999 with emission reduction required by the Clean Air Act.

These studies provide the two items necessary to support a reclassification for the Philadelphia CMSA. The data upon which the "Severe" designation is based is faulty. And, the area can achieve attainment under the strict emissions reductions required in a "Serious" non-attainment area. Given the high costs of "over-regulation" implicit in treating the Philadelphia CMSA more harshly than the data support, reclassification should be granted and the ETRP regulation should not be adopted by Pennsylvania or approved by EPA.

II. The Clean Air Act Nonattainment Classification System and the Classification of the Philadelphia CMSA

The Clean Air Act divides the country into Air Quality Control Regions which are designated as either attainment or nonattainment of the .12ppm standard for ozone. Industry must meet increasingly strict requirements in nonattainment areas depending on the classification to locate or expand, if not only to simply remain in the area. The classifications, design values and attainment dates are as follows:

AREA CLASSIFICATION - OZONE

<u>Classification</u>	<u>Design Value</u>	<u>Attainment Date</u>
Marginal	.121 to .138	11/15/93
Moderate	.138 to .160	11/15/96
Serious	.160 to .180	11/15/99
Severe	.180 to .189	11/15/05
Severe	.190 to .280	11/15/07
Extreme	.280 and above	11/15/10

Philadelphia as a severe area would have until 2005 to attain the standard. A severe area, however, is subject to the very adverse requirements of employer trip reduction programs and the stringent restrictions on new or expanded industrial facilities which would extend to even medium and some small size businesses. As a serious area, the standard would have to be attained by 1999 or two extension years thereafter at EPA's discretion, and the onerous restrictions on business would be somewhat mitigated.

The Clean Air Act directed EPA to classify each area in accordance with EPA's existing policies in the determination of the area's "design value." These procedures in existence prior to the adoption of the 1990 Amendments to the Clean Air Act called for examining the air quality readings at each monitor over a three year period and selecting the fourth highest reading during that three year period as the design value is the design value for that monitoring station. Under other provisions of the Clean Air Act, the design value for the monitoring station showing the highest value for the entire Philadelphia CMSA. These EPA procedures provided for no adjustments for guidance for unusual meteorological conditions or aberrant readings in unusual years.

EPA's strict adherence to this methodology led to the classification of the entire Philadelphia CMSA as a severe area because 3 exceedances of the standard at the Chester, PA monitoring station during the unusual summer of 1988 and one exceedance in 1989 resulted in a design value calculation of .187ppm. Were it not for this design value calculation, the entire Philadelphia CMSA would have been classified to the less restrictive "serious" classification. These readings at the Chester monitoring station and the calculation of the .187 design value for the Chester monitoring station are as follows:

CHESTER READINGS

<u>Year</u>	<u>Exceedances</u>	<u>Date</u>	<u>Violation Value</u>
1987	8	6/25	.127
		6/30	.130
		7/1	.130
		7/13	.125
		7/23	.125
		7/31	.137
		8/5	.157
1988	17	5/29	.125
		5/30	.142
		6/14	.130
		6/15	.145
		6/20	.129
		6/21	.129
		6/22	[.189]
		7/6	.150
		7/7	[.208]
		7/8	.152
		7/10	.142
		7/11	.134
		7/13	.154
		7/18	.130
		7/27	[.193]
		7/30	.152
		8/9	.153
1989	2	7/25	.126
		9/11	[.187]
1990	2	6/29	.149
		7/9	.138

An examination of the data underlying the Chester readings reveal two important points. First, the summer of 1988, in which three of the ozone readings critical to the "severe" designation occurred, was a very unusual summer. If one omits the 1988 summer, the ozone readings from 1980 through 1993 all would classify Philadelphia as a moderate area. This fact has been acknowledged by EPA Region II. In "Ozone Air Quality 1990 New Jersey and New York", EPA Region II, the Regional Administrator of EPA Region II stated that if the three year period used by EPA was shifted to 1989 - 1991, Philadelphia would become a moderate non-attainment area.

The second item revealed by the Chester data is that one single reading during the summer of 1989 is also crucial to the Philadelphia design value calculation. However, in contrast to the summer of 1988 data, this 1989 Chester reading, on September 11, 1989, is of highly suspect validity. On the same day, no other Pennsylvania monitors experienced the same or similar ozone levels. Indeed, neighboring and highly correlated monitors upwind and downwind of the Chester monitor on September 11, 1989 had much lower ozone readings. It is this number, discussed below, which the ERM Study analyzes in detail.

III. The ERM Study: The Philadelphia CMSA Has A "Serious" Area Design Value

A. ERM Background

The ERM Group of companies, founded in 1977, is a leading international environmental consulting organization. ERM has is a nationally-recognized group of experts which have experience in every aspect of environmental consulting. ERM has extensive experience with air quality issues, including permitting, modelling, emissions studies and compliance demonstration.

The ERM study of the Chester monitor readings was conducted by Kenneth N. Weiss, P.E. and William J. March, Ph.D. Between them they have extensive qualifications and experience in the fields of air quality and meteorology.

B. Results of ERM Study

The ERM Study concluded, based on a thorough review and statistical analysis of the relevant air quality data in the Philadelphia CMSA that the 0.187 ppm ozone reading on September 11, 1989, upon which EPA's Philadelphia area ozone design value is based, is faulty. This data should therefore be excluded from the design value

calculation process. Using the next highest calculated design value in the Philadelphia CMSA at Lums Pond, the Philadelphia CMSA design value should be no higher than 0.180 ppm, or in the "serious" nonattainment range.

1. Data Validation Review.

Applicable Guidance. ERM's conclusion that the 0.187 ppm data point should not be considered in calculating the design value at Chester is based on the guidance issued by the Pennsylvania Department of Environmental Resources ("DER") and the United States Environmental Protection Agency ("EPA") for reviewing air quality data for consistency and validity.* Generally, data is reviewed through various statistical tests to screen for anomalous or unusual data. This suspect data is then further reviewed manually and through more sophisticated statistical techniques in order to determine the reliability of the data.

The DER guidance provides for three statistical data validation tests "in order to provide a degree of confidence in the hourly ambient air quality database." DER, Section 4.7, p. 1. These tests are the PATTEST (Pattern test program from EPA), the GAPTEST (Gap test from EPA) and the METTEST (statistical and pattern type meteorology parameter test). EPA provides for a broader set of tests, divided into four categories:

- (i) routine validation procedures
- (ii) tests for internal consistency
- (iii) tests for consistency of data sets with previous data (historical/temporal)
- (iv) tests for consistency with other data sets (parallel data sets).

Quality Assurance Handbook for Air Pollution Measurement Systems, Volume 1, *Principles*, U.S. Environmental Protection Agency, EPA 600/9-76-005, December 1984 (cited as EPA); Ambient Air Monitoring Data Validation Manual, Commonwealth of Pennsylvania Department of Environmental Regulation, December 1991 (cited as PaDER).

Using this framework, the ERM Study has determined that the Chester, PA reading on September 11, 1989 is invalid and should not be considered in the design value calculation.

Routine validation procedures. The ERM study concludes that the Chester .187 reading should be "flagged" because it cannot pass one of these procedures.

This category of tests provides for routine checks of the following: data identification checks, deterministic relationship checks, and unusual event review.

A thorough review of events surrounding the September 11, 1989 measurement in Chester, PA, located at least one major unusual event which may have caused the unusual .187 reading at Chester. Beginning on the morning of September 11, 1989, road construction began on state highway 322, the Conchester Highway, a major commuting thoroughfare just south of the Chester monitor, between Route 1 and Interstate 95." Clogged traffic patterns resulting from this construction could clearly have caused unusual ozone readings. Importantly, the EPA and DER guidances specifically provide that construction activity and/or traffic jams should be considered unusual events supporting the rejection of anomalous data. EPA, Section No. 1.4.17, p. 4; PaDER, Section No. 2.2, p. 3. Note: This event will be discussed further in Section III.B.2 below.

Tests for Internal Consistency. These tests check values in a data set which appear atypical (i.e. unusually high or low data) when compared to the whole data set. Typical tests include: data plots, "Dixon ratio" test, Grubbs test, Gap test (GAPTEST), "Johnson" p test, and multivariate test.

The ERM Study found that both frequency distribution data plots and the Dixon ratio test identified the September 11, 1989, data as suspicious (i.e. "flagged" data). Mere flagging, according to the guidance, does not necessarily cause a rejection of the data. Instead, flagged data is then scrutinized manually and with other statistical tests for any explanation of the anomaly, like an unusual event which would require the rejection of the data.

Tests for Historic Consistency. These tests check the consistency of the data set with respect to similar data recorded in the past. These tests include: gross

" See "Delaware County Daily Times" article by John M. Roman dated September 10, 1989.

limit checks, pattern (PATTEST) and successive difference tests, parameter relationship tests and Shewhart control charts.

The ERM Study found that a pattern test identified the September 11, 1989, Chester, PA, data as an anomaly suspect. DER guidance provides that the data is considered suspect if it exceeds certain thresholds. One threshold, the maximum hour test for a summer day, is 0.160 ppm. Since the Chester, PA, data exceeded this number on September 11, 1993, it is considered suspect. Again, suspect data is not normally discarded, but is instead more closely scrutinized for invalidity.

Tests for Consistency with Parallel Databases. These tests are some of the most powerful indicators of faulty data. They are used to detect biases in data by comparing two or more data sets comparable through time or by using comparable data sets. Frequently used tests include: sign test, Wilcoxon signed-rank test, rank sum test, and the intersite correlation tests.

The ERM Study's use of intersite correlation tests reveal that the September 11, 1989, Chester, PA, data is highly suspect. This same-day statistical correlation analysis is perhaps the most persuasive evidence that the September 11 measurement is faulty.

The ERM Study performed regression analyses between the Chester station and each of the Claymont and Folcroft air monitoring stations. The Claymont and Folcroft analyses are particularly important since these stations are the closest to and surround the Chester monitor: Claymont is south (upwind), and Folcroft is north (downwind).

Using standard statistical techniques, ERM performed regression studies with the Claymont and Folcroft stations, as predictors of the Chester monitor. The Claymont and Folcroft stations had variance-explained fits of 90% and 95%, respectively, based on the summer of 1988 data. These regression numbers, applied to the September 11, 1989 data, are revealing. The likelihood that the Chester monitor reading of 0.187 ppm is accurate, when compared to the readings at Claymont and Folcroft is set out in this chart:

<u>Station</u>	<u>9/11/89 Reading</u>	<u>Predicted Chester</u>	<u>Confidence Interval</u>	<u>Reliability of Actual Chester</u>
Claymont	100	97	> 99.9%	less than 0.1%
Folcroft	100	104	> 99.9%	less than 0.1%

The above correlation analyses show that the September 11, 1989, Chester, PA, ozone reading is inherently unreliable. Indeed, these data analyses alone support a rejection of the September 11, 1989 Chester reading, for if not, decisions affecting millions of people will be made using data that is more than 99.9% likely to be incorrect.

2. Explanation for Unreliable Data.

The various tests discussed above, and more fully set out in the ERM Study, demonstrate the reliability problems with the September 11, 1989, Chester, PA, data point. Indeed, the extreme likelihood that the reading is inaccurate, when compared to other area measurements on September 11, 1989, is alone sufficient to discard the data.

However, there is further evidence that the data should be discarded. As discussed above, both EPA and DER provide that anomalous data explained by an unusual event should be excluded from the database for purposes of determining an area's design value. As was further set out above, road construction and/or traffic jams are just the sort of unusual events the EPA had in mind in the guidance.

Not coincidentally, Monday morning, September 11, 1989, marked the beginning of comprehensive repairs to the Conchester Highway, or Route 322, in the vicinity of the Chester monitor. This construction undoubtedly caused lane closures and travel delays, including the use of flagging to move traffic through the construction zone, all on a 7 mile stretch of Route 322 between Route 1 and Interstate 95.

This construction bottleneck, new to motorists on the morning of September 11, 1989, on a major Philadelphia area commuting highway, could well have caused the exceedance recorded at 1:00 pm at the Chester monitor. As shown by the ERM report, this unusual event and existing weather condition could have been enough to cause the extraordinarily high .187 reading at the Chester monitor.

C. Rejection of Suspect Data in Determining Design Value.

Implicit in the proper calculation of the design value is the accuracy of the underlying data. Thus, if certain ozone concentration measurements are invalid, then they are not used for purposes of determining the design value. For example, if a monitor on a particular day provides faulty data, those data will not be used in conjunction with the other data in determining the design value. The EPA and PADER guidances provide methodologies to discover and address these bad data.

One example of this was EPA Region III's determination of the design value for West Virginia pursuant to the 1990 Amendments. Subsequent to the passage of the 1990 Amendments the West Virginia Governor requested a discretionary "bump-down" under section 181 of the Act. The foundation of the "bump-down" request was that one of the measurement stations was shown to be producing faulty data on one of the days critical to the design value determination for West Virginia. Because this data was demonstrated to be faulty, EPA approved this exclusion of data from the pool of measurements used in calculating the design value for the appropriate area, and West Virginia received the requested "bump-down".

The rationale for excluding data where it is shown that the monitor was demonstrably experiencing mechanical failure, applies equally when the data is demonstrated to be inherently unreliable, perhaps because of an unusual traffic tie up. Whatever the cause, the measurement recorded by the Chester monitor demonstrates an unusually high reading when compared to other monitors on the same date and time when compared to the predictive correlation between those other monitors and the Chester reading. Accordingly that data point is unreliable.

In this instance, the ERM study indicates that the 0.187 ppm reading at Chester has less than a 0.1% chance of being a reliable data point, when compared to nearby upwind and downwind monitors on the same day. Rejection of the 0.187 ppm reading on September 11, 1989 as being erroneous would mean that the design value at Chester would have been either 0.157 ppm, the next highest reading at Chester on August 5, 1987 (using 1987-1989 as the design value period) or at .154 on July 13, 1988 if 1988-1990 is used as the design value period. In either event, the Chester monitor would indicate a classification as a "moderate" area. The marginal to moderate exceedances in 1993 summarized in the ERM report at page 3 show how preposterous it is to classify the Philadelphia CMSA as a "severe" area. Indeed, not only is Chester in the "moderate" range, but based upon data from 1990-1992, all of the Philadelphia CMSA should have a design value of a "moderate" area. The only valid course of action is to throw out the

bad data and determine the design value of the Chester monitor to be well within the "moderate" classification.

D. The Proper Philadelphia CMSA Design Value.

Once this September 11, 1989, Chester, PA, reading of 0.187 ppm is excluded, the design value determination falls to the next highest design value monitor calculation. According to EPA's Technical Document supporting its classification of ozone nonattainment areas, this next highest design value is found at the Lums Pond, DE, monitoring station. That station's design value for the years 1987-1989 is 0.180 ppm. Using this design value, the Philadelphia CMSA should be reclassified to a "Serious" nonattainment area for ozone, as provided for in section 181 of the Clean Air Act.

IV. **The SAI Study: The Philadelphia CMSA Can Attain the NAAQS for Ozone By the 1999 Attainment Date As a Serious Area.**

SAI's Qualifications. Systems Applications International ("SAI"), a division of ICF Kaiser Engineers, specializes in atmospheric sciences and air quality management. It is a key consulting firm in this field. Its clients include government agencies such as EPA. In fact, SAI is currently working on the development of the urban airshed model for the Philadelphia metropolitan area. Its clients also include state and local agencies with responsibility for protecting or conserving air quality such as the California Air Resources Board and the air quality management districts for the San Francisco and Los Angeles regions. Its clients also include private businesses and industrial associations that must meet environmental regulations as well as research institutions in the air quality field.

These services draw on the unique capabilities which SAI has developed during 20 years of research and experience in the fields of environmental health, engineering sciences and computer applications. Current study areas include:

- * Determining local, national, and global air quality trends; applying statistical techniques to design optimal environmental monitoring networks;
- * Applying advanced data base management techniques to maintain, archive, and disseminate large environmental data bases;
- * Analyzing local and regional airflow in air quality simulation models.

SAI's Assignment. The PENJERDEL Council selected SAI to conduct a detailed air quality projection study of the Philadelphia CMSA to determine whether there was a technical basis for concluding that the Philadelphia CMSA could reach attainment as a serious area by the 1999 attainment date as required by the Clean Air Act.

The detailed air quality projection study was commissioned by PENJERDEL because the conduct of an urban airshed model for the entire area could not be completed within the time dictated by the Clean Air Act for review of EPA's classification of the Philadelphia CMSA as a "severe" area. EPA's "severe" classification must be reviewed under Section 172(a)(1)(B) of the Clean Air Act after EPA takes action on a state implementation plan submission required by that classification. Pennsylvania's Environmental Quality Board may act on Pennsylvania's proposed Employer Trip Reduction plan as early as September 21, 1993 and promptly submit it to EPA for approval. The urban air shed model for this region may not be completed until 1994 at the earliest."

The SAI analysis of emission trends provides the necessary evidence that the Philadelphia CMSA can attain the standard by 1999. It shows a marked downward trend in VOC and NO_x emissions, particularly from mobile sources. SAI's report, which is in the final stages of being drafted, will show that there is a high probability that attainment can be reached by 1999 with the emission controls required for a "serious" area.

The Database for the SAI Study. Having selected SAI because of its preeminence in the field, The PENJERDEL Council, through ERM, supplemented the air quality information already available to SAI relating to the Philadelphia CMSA by supplying SAI with all of the air quality information available for the period of 1980 through 1992 from EPA through its Aerometric Information Retrieval System ("AIRS") as well as from environmental regulatory agencies in Pennsylvania, New Jersey, Delaware and Maryland. AIRS is a database system intended to provide federal, state and local environmental agencies with a quick, standardized tool to manage a variety of national and local pollution assessment and control programs. Since state and local air quality regulatory agencies are required to report monitoring results to the AIRS system after the air quality data has undergone quality assurance/quality control analysis ("QA/QC"),

*** Execution of this model must satisfy the extensive input data requirements for the model as listed in EPA's user guide. See EPA's User's Guide for the Urban Airshed Model, Volumes I-VIII (1990).

it is one of the most reliable air quality data sources available on a national and regional basis.

In addition, SAI was supplied with all relevant weather data for the area for the period 1980 through 1992 through the National Weather Bureau to enable SAI to normalize the air quality data for weather conditions.

SAI collected other data to enable it to identify key emission source categories in the Philadelphia and other applicable upwind sources such as the Northern Virginia and Baltimore areas. This has included the 1990 Interim inventory of VOC and NO_x emissions, the 1985 National Acid Precipitation Assessment Program ("NAPAP") Emissions Inventory, vehicle miles traveled ("VMT") data from the Delaware Valley Regional Planning Commission ("DVRPC") as well as supplemental data obtained by SAI from Pennsylvania, New Jersey, Delaware, Maryland and District of Columbia government sources.

The Study Procedure. Following the collection of the necessary data, the study followed a four step procedure. The first step was to develop an appropriate "base case" emissions forecast scenario. The second step was to develop emission trends by reference to the base year emissions data. The third step is to develop ambient ozone trends by normalizing the air quality data with reference to the meteorological data. The fourth and final step was to forecast future air quality.

In general, the forecast scenario assumes the implementation of the most important VOC and NO_x reduction requirements of the Clean Air Act applicable to the Philadelphia CMSA as a "serious" area which are clearly "do-able", as well as new car roll-in and lower RVP. These include the implementation of the enhanced inspection and maintenance ("I&M") and Stage II gasoline vapor recovery requirements applicable to mobile sources in 1995, the implementation of reasonably available control technology ("RACT") requirements in 1995, the required development of a state implementation plan ("SIP") for a 15% reduction of VOCs by 1996 and for the annual reduction of VOC emissions by 3% in each subsequent year to attainment, the implementation of certain control technique guidelines (CTGs) as RACT before 1999, and the implementation of major source new source review provisions by 1996.

The final forecast of future air quality conditions began with the development of regression relationships between ozone precursor emissions based on historical data for adjusted and unadjusted ozone concentrations for the entire area between Northern Virginia and Trenton, New Jersey using various methods which will be detailed in the report. Future ozone concentrations for each trend estimation method was made.

Summary of SAI's Conclusions. SAI has advised PENJERDEL that its detailed projection study shows that attainment of the standard for ozone can be achieved in the Philadelphia CMSA by 1999 with at least an 81% probability. The predicted mean design values adjusted for meteorological conditions show an ever-decreasing level of ozone concentration which probably will be below the .12ppm ozone standard by 1996. This analysis will demonstrate to at least a 81% probability that the standard will be attained by 1999.

There are many reasons for this. The roll on of new cars, the retirement of older automobiles and trucks, the reduction of Reid vapor pressure in gasoline, and the introduction of Stage II vapor controls in Philadelphia County have already resulted in marked reductions in ozone levels from mobile sources as compared to 1990. The estimated reductions in mobile source emissions in 1995 come from enhanced I&M programs, federal reformulated gasoline requirements and continued old car scrappage.

In the case of stationary sources, the implementation of RACT requirements in 1995 including the adoption of new CTGs will result in marked reductions of ozone precursors.

None of these control strategies includes the implementation of an employer trip reduction program.

V. Reclassification of the Philadelphia CMSA is Proper Under EPA Guidance.

EPA's January 22, 1991 Guidance on Designations/Classifications for Ozone and Carbon Monoxide provides as the principal test of "down-classifying" an area through the use of data subsequent to 1989 as "can the area seeking a down shift reasonably be expected to attain within the time provided and with the measures specified by the Act for the lower classification?" The Guidance sets forth two subtests for the use of years subsequent to 1989. They are:

1. "What do past air quality trends say? Do they show a downward, steady, upward or steady pattern?"
2. "Are growth projections and emission trends supportive? Are VMT and other indicators increasing at higher than normal rates?"

The SAI study supports the conclusion that the Philadelphia CMSA can reasonably be expected to reach attainment by 1999 as a serious area with a high degree of probability. It also shows a marked downward trend in ozone concentrations since 1988. The SAI study also supports the conclusion that emission trends are supportive.

VMT and other related indicators are not increasing at higher than normal rates. The data collected by the Delaware Valley Regional Planning Commission ("DVRPC") shows that VMT in the Philadelphia area increased in recent years by only 1.5 to 2.5%. The DVRPC projects only a 1.2% VMT growth beyond 1996. Moreover, employment trends in the Philadelphia CMSA are downward. The Philadelphia Inquirer for August 26, 1993, reported a 3% employment decrease in Philadelphia and a .8% loss of jobs in the entire eight-county area in the year ended June, 1993.

Obviously, the use of the more recent design values for the Philadelphia area could only result in a moderate design value. The design value for the Philadelphia CMSA for 1989-1991 was .152. The likely design value for 1990-1992 is .153. Through August, 1993, the exceedances in Pennsylvania would indicate a design value of .136 for a "Marginal" area. Only 5 of the 28 reported exceedances in the Philadelphia CMSA through the end of August were in the moderate area range.

Air quality trends unquestionably support a classification of the Philadelphia CMSA as no more than a serious area.

VI. Conclusion and Recommendations

By reason of the foregoing, EPA should exercise its authority under Section 110(k)(6) of the Clean Air Act to determine that the classification of the Philadelphia CMSA is erroneous and reclassify the area as serious.

State officials should request EPA to make that determination. If state officials feel required to submit a SIP revision requiring employers to implement an

employer trip reduction plan because of the sanctions which EPA might impose in the absence of such a submission, the submission should be made for EPA approval conditional on EPA's denial of the request to reclassify the Philadelphia CMSA to "serious."

The interests of both employers and employees in the Philadelphia area require that these actions be taken to promote employment opportunities, to promote the employee's individual rights, and to avoid the imposition of unneeded costs on employers.

Employment and Business Expansion

Continued employment in the Philadelphia area requires an environment in which businesses are persuaded to remain or locate here. Job loss continues to be a serious problem in the Philadelphia area even though the full impact of the classification of the Philadelphia CMSA as a "severe" area is yet to be felt.

The effect of a reclassification of the Philadelphia CMSA to serious would be extremely beneficial in terms of easing the location, expansion and sustainability of manufacturing facilities here. The effect of the change would mean that fewer businesses would be subject to emission "offset" restrictions on location and expansion of their manufacturing businesses here and those requirements of the Clean Air Act would be less onerous. In short, the more onerous and technical offset requirements and the related cost of environmental lawyers and consultants would be imposed on fewer business facilities.

Further, reclassification to a less onerous category would erase the erroneous and unjustified stigma of Philadelphia and the Delaware Valley being viewed as a "highly polluted" region that discourages civic pride and inhibits attracting new businesses and taxpayers.

No Significant Air Quality Benefits in ETRP

The implementation of the proposed transportation control programs in the Philadelphia CMSA will have little or no effect on air quality. The Transportation Control Measure Information Documents prepared for the United States Environmental Protection Agency in March 1992 by Cambridge System Systematics, Inc. states that because employment trip reduction ordinances are relatively new, there is limited direct evidence on their performance. This report points out that the effectiveness of an

employer trip reduction program on trip reduction ordinances ("TRO") depends on the rate of growth and the type of development the local jurisdiction is experiencing. This report states:

In a fast-growing area with a number of large-scale development projects, the TRO may well affect the travel options of a significant percentage of commuters. In an area where growth is occurring at a more modest pace, and where employers or developments are smaller, the TRO will have a much more limited impact; the effect will be at the margin for years to come.

The effect of the employer trip reduction program in the Philadelphia area is likely to be extremely limited and at margin for years to come because the Philadelphia area definitely is not a rapidly expanding area. The 3% loss of jobs in Philadelphia in the year ended June 30, 1993, reported by the Philadelphia Inquirer on August 26, 1993, is dramatic proof of this. In addition, the impact of the severe classification on industrial growth is likely to further curtail growth rates. The proposed program in Pennsylvania is likely to have an extremely limited impact. The Cambridge Systematic, Inc. report prepared for EPA calculates that an employer trip reduction program that applies only to peak hour work trips might reach only 2 to 5% of the area's trips.

The San Francisco area ride share agency reports that informal carpooling does little to improve air quality because many carpoolers drive to the location where they are picked up. Since most pollution from automobiles comes when the engine is cold-started, driving to the pick-up spot negates whatever positive effect carpooling may have on air quality. Environmental Reporter, p. 3028 (3/19/93)

Adverse Impact on Employers

By contrast to the limited impact on air quality that an employer trip reduction program would have, the financial impact on each employer alone would be enormous. Some employers in our group have estimated the cost of developing and the initial implementation of such a program to be in excess of \$100,000. The continual monitoring and enforcement of such a program over many years would be a tremendous cost.

The benefits, if any, are not worth the cost. This is particularly so when attainment can be reached in 1999 without the program, and the program would be required only by one data point which is clearly unreliable.

Respectfully Submitted,

The PENJERDEL Council

By



Henry H. Reichner, Jr.
Senior Director

Table 1. 1993 Ozone Exceedances for the Philadelphia CMSA Locations

Date	Day of Week	Monitoring Site	Ozone Concentration (ppm)	Classification
10 May 1993	Sun	Clarksboro, NJ	0.127	Marginal
11 May 1993	Mon	Ancora, NJ	0.129	Marginal
9 June 1993	Wed	Lums Pond, DE	0.135	Marginal
17 June 1993	Thur	Rider College, NJ	0.135	Marginal
18 June 1993	Fri	Rider College, NJ	0.125	Marginal
18 June 1993	Fri	Lums Pond, DE	0.140	Moderate
18 June 1993	Fri	Bellefonte, DE	0.137	Marginal
18 June 1993	Fri	Dover, DE	0.126	Marginal
19 June 1993	Sat	Ancora, NJ	0.138	Marginal
20 June 1993	Sun	Norristown, PA	0.127	Marginal
29 June 1993	Tue	Lums Pond, DE	0.136	Marginal
5 July 1993	Mon	Norristown, PA	0.130	Marginal
5 July 1993	Mon	Bristol, PA	0.130	Marginal
8 July 1993	Thur	Ancora, NJ	0.136	Marginal
10 July 1993	Sat	Ancora, NJ	0.125	Marginal
11 July 1993	Sun	Ancora, NJ	0.129	Marginal
13 July 1993	Tue	Ancora, NJ	0.140	Moderate
25 July 1993	Sun	Rider College, NJ	0.137	Marginal
25 July 1993	Sun	Bristol, PA	0.137	Marginal
25 July 1993	Sun	NE Philadelphia, PA	0.130	Marginal
25 July 1993	Sun	Roxborough, PA	0.130	Marginal
25 July 1993	Sun	Norristown, PA	0.132	Marginal
2 August 1993	Mon	Ancora, NJ	0.134	Marginal
2 August 1993	Mon	Lums Pond, DE	0.141	Moderate
2 August 1993	Mon	Bellefonte, DE	0.140	Moderate
2 August 1993	Mon	Chester, PA	0.129	Marginal
13 August 1993	Fri	Lums Pond, DE	0.130	Marginal
25 August 1993	Wed	Ancora, NJ	0.158	Moderate
25 August 1993	Wed	Clarksboro, NJ	0.125	Marginal
26 August 1993	Thur	Ancora, NJ	0.127	Marginal
27 August 1993	Fri	Bristol, PA	0.129	Marginal
28 August 1993	Sat	Clarksboro, NJ	0.130	Marginal



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

DEC 22 1993

Honorable Elinor Z. Taylor
House of Representatives
Commonwealth of Pennsylvania
P.O. Box 84
315G Main Capitol Building
Harrisburg, Pennsylvania 17120-0028

Dear Representative Taylor:

Thank you for your letter of November 24, 1993 requesting that EPA base its decision to reclassify Chester County, which is part of the Philadelphia ozone nonattainment area, on PenJerDel's updated studies. EPA has evaluated the PenJerDel studies and concluded that the 1991 decision to classify the Philadelphia nonattainment area as severe for ozone was based on sound air quality data and appropriately considered other factors which affect the ability of the area to attain the ozone standard.

PenJerDel contends that EPA erred in its decision to classify the Philadelphia area as severe, and under the discretion afforded the agency in such situations by section 110(k)(6) of the Clean Air Act, should reclassify the area as serious. PenJerDel commissioned two studies; one to show that the air quality data used to classify the Philadelphia area was faulty, and the other to show that the Philadelphia area could attain by 1999, which is the statutory attainment date of the next lower classification.

The contractor study, commissioned by PenJerDel which tries to show that the air quality data is flawed, uses inappropriate methods to attempt to invalidate the data used to classify Philadelphia. The 0.187 ppm monitored reading recorded at the Chester monitor on September 11, 1989 is part of an ozone episode which occurred during the week of September 6, 1989 and is not an anomalous value. The 0.187 ppm reading has been validated by both EPA and the Pennsylvania Department of Environmental Resources (PA DER). The monitors in the Philadelphia nonattainment area showed monitored values in approximately the same range, during the three year period between 1987 and 1989, with exceedances ranging from 0.140 ppm to 0.249 ppm. In this same period, 396 exceedances of the health-based ozone standard were recorded for the Philadelphia nonattainment area. EPA's mission and mandate is to protect public health during all years and under all meteorological conditions. Toward this end, quality

assurance procedures are used to ensure that all the air quality data used to classify an area is a result of accurate air quality monitoring.

Section 181(a)(1) of the 1990 Clean Air Act requires design values to be calculated in accordance with EPA's methodology most recently issued before November 15, 1990. This methodology is that described in the June 18, 1990 memorandum from William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors. This specific methodology has been used in calculating ozone design values since 1987. The final rulemaking on the designation and classification of areas published in the Federal Register on November 6, 1991 used the methodology described in the June 1990 memorandum to determine ozone design values and to classify areas with respect to ozone. Therefore, although we have enclosed the information you requested on more recent air quality data for the Philadelphia area, section 181 of the Clean Air Act does not allow the use of post-1990 air quality data for the purpose of establishing ozone classifications. Also note that the information which we enclosed includes only air quality data up through December 1992. This is because the state does not certify the air quality data until the entire calendar year has elapsed. Therefore, the 1993 air quality data has not yet been certified by Pennsylvania.

The second contractor study commissioned by PenJerDel was an attempt to show that Philadelphia could attain by November 15, 1999, the statutory attainment for the next lower ozone classification. This study was also seriously flawed because an inappropriate modeling method was used by the contractor. In addition, unrealistic assumptions were made about the reductions which could be obtained from the implementation of control measures which have not been adopted (and are not currently in the process of rulemaking) and no growth was projected for sources in many source categories.

EPA's information through the Regional Oxidant Modeling (ROM) analysis shows that with the implementation of the 1990 Clean Air Act control measures for marginal, moderate, serious and severe areas in the northeast corridor, major metropolitan areas in the northeast, such as Philadelphia, are not expected to attain the ozone standard by 2005. Therefore, on October 27, 1993, EPA sent a letter to Pennsylvania, in response to its request that the PenJerDel study summaries be reviewed, that stated that the final decision to keep the Philadelphia classification as severe was based on sound air quality data and other factors pertaining to the ability of the area to attain the ozone standard.

EPA has reviewed the two studies commissioned by PenJerDel and has determined that Philadelphia's ozone classification was properly made and that the Philadelphia ozone nonattainment area

should remain severe. At this time, EPA may only change an area's classification in accordance with section 110(k)(6) if it determines that an error had been made in the classification of an area. Since EPA has determined that no error had been made in the Philadelphia severe ozone classification, this section cannot serve as a basis for reclassifying Philadelphia from severe to any other ozone classification.

Consequently, the Philadelphia ozone nonattainment area will continue to be classified as severe and, the Employer Trip Reduction (ETR) Program, as well as all other Clean Air Act requirements for severe ozone nonattainment areas, will continue to be required for the Philadelphia area. EPA encourages the Chester County delegation, along with other interested parties, to bring its concerns to the attention of EPA and PA DER during the development of the ETR program. EPA is convinced that a workable ETR program can be developed and implemented with the help of concerned parties, such as yourselves. EPA continues to support the Commonwealth in the development of all programs needed to attain and maintain the ozone standard in the Philadelphia severe ozone nonattainment area, including stationary, mobile and area source measures.

Sincerely,



Thomas J. Maglany, Director
Air, Radiation and Toxics Division

Enclosure

cc: J. Salvaggio, PA DER

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

3

should remain severe. At this time, EPA may only change an area's classification in accordance with section 110(k)(6) if it determines that an error had been made in the classification of an area. Since EPA has determined that no error had been made in the Philadelphia severe ozone classification, this section cannot serve as a basis for reclassifying Philadelphia from severe to any other ozone classification.

Consequently, the Philadelphia ozone nonattainment area will continue to be classified as severe and, the Employer Trip Reduction (ETR) Program, as well as all other Clean Air Act requirements for severe ozone nonattainment areas, will continue to be required for the Philadelphia area. EPA encourages the Chester County delegation, along with other interested parties, to bring its concerns to the attention of EPA and PA DER during the development of the ETR program. EPA is convinced that a workable ETR program can be developed and implemented with the help of concerned parties, such as yourselves. EPA continues to support the Commonwealth in the development of all programs needed to attain and maintain the ozone standard in the Philadelphia severe ozone nonattainment area, including stationary, mobile and area source measures.

Sincerely,

Thomas J. Maslany, Director
Air, Radiation and Toxics Division

Enclosure

cc: J. Salvaggio, PA DER

H: /GROUP/3AT13:PACHESTR.CLS:12/10/93 CONCURRENCES							
SYMBOL	3AT13	3AT13 <i>Rev 10</i>	3AT10	3AT00			
SURNAME	STAHL	ARNOLD	SPINK	MASLANY			
DATE	<i>Oct 30 1993</i>	<i>12/17</i>	<i>12/29 93</i>				



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

NOV 01 1993

Honorable Robert S. Walker
House of Representatives
Washington, D.C. 20515

Dear Mr. Walker:

Thank you for your letter of October 13, 1993 to Administrator Browner regarding the Philadelphia severe ozone nonattainment classification. Your letter also included copies of two studies commissioned by PenJerDel in support of the reclassification of Philadelphia to serious ozone nonattainment.

PenJerDel's report concludes that the Philadelphia ozone nonattainment area does not need to implement the Employer Trip Reduction (ETR) program because the area was incorrectly classified as severe based on an unreliable monitored ozone reading in Chester, Pennsylvania on September 11, 1989. According to PenJerDel, this monitored value should have been discarded because of traffic congestion on the day in question. PenJerDel also concludes that the next highest monitored ozone exceedance was in the serious nonattainment range, not severe. PenJerDel implicitly questions EPA's methodology on how ozone design values are calculated and offers other statistical tests to show that, using these other tests, the design value would not be in the severe nonattainment range. In support of a lower classification of "serious" for the Philadelphia nonattainment area, PenJerDel also asserts that the Philadelphia area can attain the ozone standard by November 15, 1999, which is the statutory deadline for serious ozone nonattainment areas.

EPA has evaluated the PenJerDel report and determined that the facts do not support its conclusions. In the first instance, traffic congestion in the area of a monitor typically results in localized decreased ozone monitored values because of increased nitrogen oxide formation which scavenges ozone. Ozone formation is a gradual process which would not be expected to occur at the site of the generation of the precursors, but instead, downwind from that site. Therefore, increased emissions from vehicle traffic around the Chester monitor might be expected to result in increased ozone readings at monitors downwind from Chester but not at the Chester monitor itself.

Secondly, the monitors in the Philadelphia nonattainment area all showed monitored values in approximately the same range, during the three year period between 1987 and 1989, with exceedances ranging from 0.140 ppm to 0.249 ppm. In fact, the next highest monitoring-site design value in the Philadelphia nonattainment area was at Lums Pond. That value was 0.180 ppm which was also in the severe nonattainment range, not in the "serious" range as claimed by PenJerDel. With specific regard to September 11, 1989, it should be noted that the peak ozone values at the other monitors in the Philadelphia nonattainment area were recorded at the same time as the Chester monitor's peak value.


Thirdly, section 181(a)(1) of the 1990 Clean Air Act requires design values to be calculated in accordance with EPA's methodology most recently issued before November 15, 1990. This methodology is that described in the June 18, 1990 memorandum from William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors. This specific methodology has been used in calculating ozone design values since 1987. The final rulemaking on the designation and classification of areas published in the Federal Register on November 6, 1991 used the methodology described in the June 1990 memorandum to determine ozone design values and to classify areas with respect to ozone.

Finally, the data on vehicle miles traveled (VMT) show a growing trend in this emission indicator. EPA finds no reliable basis for concluding that the Philadelphia area can attain the ozone standard by 1999.

EPA has found no reason to conclude that an error was made in classifying the Philadelphia ozone nonattainment area as severe. Consequently, section 110(k)(6) of the Clean Air Act, which authorizes the Agency to correct errors in the classification or reclassification of areas, cannot serve as a basis for reclassifying Philadelphia from severe to any other ozone classification. It should also be noted that although the final rulemaking action classifying the area was promulgated on November 6, 1991, no petitions for reconsideration were filed under the Administrative Procedures Act, nor were any comments filed suggesting changes to the final action as explained in the final rulemaking notice.

Thus, the Philadelphia ozone nonattainment area will continue to be classified as severe and, the ETR program, as well as all other Clean Air requirements for severe ozone nonattainment areas, will continue to be required for the Philadelphia area. EPA continues to support the Commonwealth in the development of all programs needed to attain and maintain the ozone standard in the Philadelphia severe ozone nonattainment area, including stationary, mobile and area source measures.

Sincerely,



Stanley L. Laskowski
Acting Regional Administrator

**CONTROLLED CORRESPONDENCE
FROM THE
GOVERNMENT AFFAIRS BRANCH**

CONTROL NUMBER: **ACIR-93-190**

RECEIVED FROM/RESPOND TO:

Honorable Paul S. Sarbanes
United States Senate
Washington, D.C. 20510

Dear Senator Sarbanes:

SUBJECT: Air Pollution Control Requirements
CONSTITUENT: Officials of Cecil County, MD

RECEIVED IN GAB: 10/20/93

DATE DUE IN GAB: 11/04/93

DATE SIGNED: **NOV 04 1993**

REFERRED ONLY TO THE DIVISION POC IN BOLD PRINT ON: 10/21/93

Air, Radiation and Toxics Division (Dottie Todd)

Chesapeake Bay Program (Kim Lonasco)

Environmental Services Division (Gayl Solomon)

Hazardous Waste Management Division (Alicia Walls)

Office of External Affairs (Angela Cochnar) - Don Welsh

Office of Policy and Management (Marie Owens)

Office of Regional Counsel (Geri DiSantis)

Water Management Division (Louvinia Madison-Glenn)

Spink #607



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III

841 Chestnut Building

Philadelphia, Pennsylvania 19107

NOV 04 1993

Honorable Paul S. Sarbanes
United States Senate
Washington, D.C. 20510

Dear Senator Sarbanes:

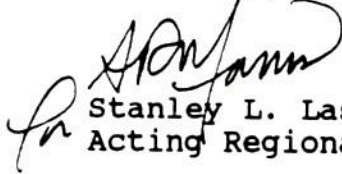
This is in response to your October 15, 1993 letter requesting that EPA consider Maryland's request to change the ozone nonattainment reclassification of Cecil County, Maryland from severe to serious. The Clean Air Act is extremely prescriptive with regard to the designations and classifications of ozone nonattainment areas. Once an area has been classified, the Act allows for reclassification of an area if EPA has determined that an error had been made in the original classification. EPA has no reason to believe, and Maryland has not offered any documentation to show, that an error had been made in the classification of Cecil County as severe ozone nonattainment.

Under section 107(d)(4), the Act requires that the boundaries for ozone nonattainment areas, designated under Part D as serious or above, be the metropolitan statistical area (MSA) or consolidated metropolitan statistical area (CMSA) by operation of law. States had until December 31, 1991 to indicate that they would be sending data to change either the classification or boundary of an area. The Act required the Governor of each state to submit a list of areas to EPA affirming the designations and classifications for every area in the state by March 15, 1991.

As you may know, Cecil County is part of the Philadelphia-Wilmington-Trenton CMSA. The State of Maryland did not challenge EPA's decision to include Cecil County in the Philadelphia-Wilmington-Trenton nonattainment area. On March 15, 1991, Governor Schaefer of Maryland submitted a list of areas to EPA affirming the designations and classifications for areas in Maryland, including Cecil County. On November 6, 1991, EPA took final action amending 40 CFR Part 81 to designate and classify the Philadelphia-Wilmington-Trenton CMSA, including Cecil County, as a severe nonattainment area for ozone. It should also be noted that although the final rulemaking action classifying the area was promulgated on November 6, 1991, no petitions for reconsideration were filed under the Administrative Procedures Act, nor were any comments filed suggesting changes to the final action as explained in the final rulemaking notice.

EPA believes Cecil County was correctly designated a severe ozone nonattainment area. EPA remains committed to continue to assist the Maryland Air and Radiation Management Administration in meeting the severe ozone nonattainment requirements set forth in the Act. If we can be of further assistance, please feel free to contact Thomas J. Maslany, Director, Air, Radiation and Toxics Division, at (215) 597-9390.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stanley L. Laskowski", is written over the typed name. To the left of the signature is a large, stylized handwritten "L" or "In".

Stanley L. Laskowski
Acting Regional Administrator

United States Senate

WASHINGTON, DC 20510-2002

October 15, 1993

Stan Laskowski
Acting Regional Administrator
Environmental Protection Agency
Region III
841 Chestnut Street
Philadelphia, Pennsylvania 19107

Dear Mr. Laskowski:

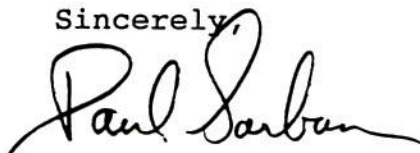
Officials of Cecil County, Maryland have recently been in touch with my office to express their concerns about the air pollution control requirements as a result of the County's inclusion in the Philadelphia metropolitan statistical area's non-attainment area. They argue that as a small, sparsely populated rural area, Cecil County does not contribute significantly to the violation of the national ambient air quality standard and have asked the Governor to request that the County be excluded from the Philadelphia nonattainment area, as authorized under the Clean Air Act.

It is my understanding that a request by the State of Maryland has been submitted to your office to exclude or reclassify Cecil County from the "severe" nonattainment area. I am writing to urge your full and careful consideration of this request.

Your attention to this matter is greatly appreciated.

With best regards,

Sincerely,



Paul S. Sarbanes
United States Senator

PSS/cas

Enclosure



MARYLAND DEPARTMENT OF THE ENVIRONMENT
2500 Broening Highway • Baltimore, Maryland 21224
(410) 631-3000

BOARD OF
COMMISSIONERS OF
SEAL COUNTY, MD

William Donald Schaefer
Governor

David A.C. Carroll
Secretary

1993 OCT -4 P 12:14

SEP 30 1993

Mr. Thomas J. Maslany
Division Director
Air, Radiation & Toxic Division
U.S. Environmental Protection Agency
Region III, 3AT10
841 Chestnut Building
Philadelphia PA 19107

Dear Mr. Maslany: *TEK*

The purpose of this letter is to request that Cecil County, Maryland be reclassified as a serious ozone nonattainment area. Currently, Cecil County is considered part of the Philadelphia-Wilmington-Trenton severe area. However, Cecil County is a rural county with a small, sparse population. Activities in Cecil County contribute to air pollution just as people's activities do throughout the region. However, with Cecil County's limited industry and sparse population, the Department feels that air pollution control requirements for serious areas would be more appropriate for Cecil County than the strategies required for severe areas.

Thank you for considering the request. Please call me if you need additional information.

Sincerely,

Merrylin Zaw-Mon, Director
Air and Radiation Management Administration

MZM/rlj

cc: The Honorable Ronald A. Guns
Mr. Martin Healy
County Administrator Edward Sealover
Ms. Marcia Spink



CECIL COUNTY GOVERNMENT

129 East Main Street
Elkton, Maryland 21921

BOARD OF COUNTY COMMISSIONERS

W. Edwin Cole, Jr., President
First District

93 OCT 12 PM 2:40

A. Marie Cleek, Commissioner
Second District
Grayson L. Abbott, Jr., Commissioner
Third District

October 7, 1993

The Honorable Paul S. Sarbanes
U. S. Senate
332 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Sarbanes:

Awhile back, the County wrote to the Governor requesting the State to ask the Administrator of the Environmental Protection Agency to exclude Cecil County from the geographic region that would be required to develop and implement an Employee Commute Option Program. Attached is the letter that outlined the reasoning behind that request.

Also attached is a letter from the Maryland Department of the Environment to the EPA's Air Radiation and Toxic Division Director in Philadelphia initiating this request.

The County Commissioners would appreciate any support you might be able to lend in this matter.

Should you have any questions or desire further information, please do not hesitate to contact me.

Cordially,

Edward L. Sealover
County Administrator

ELS/cam

Attachments

Reply To:

Office of County Administrator
Room 109, Court House
Elkton, MD 21921
Telephone: (410) 996-5203
Fax: (410) 996-5210



CECIL COUNTY GOVERNMENT

100 East Main Street
Elkton, Maryland 21921

BOARD OF COUNTY COMMISSIONERS

W. Edwin Cole, Jr., President
First District

A. Marie Cleek, Commissioner
Second District
Grayson L. Abbott, Jr., Commissioner
Third District

August 5, 1993

The Honorable William Donald Schaefer
Governor, State of Maryland
State House
Annapolis, Maryland 21401

Dear Governor Schaefer:

The Board of County Commissioners respectfully requests your assistance regarding new regulations about to be implemented which will have a significant impact on Cecil County.

The Clean Air Act of 1990 requires that certain regions of the country adopt air pollution control strategies. One such strategy now in the process of being implemented is the Employee Commute Options (ECO) Program. Its purpose is to improve air quality by decreasing the number of people that drive alone to work during the peak commute period. The goal is a 25% reduction in the number of cars on the road during rush hour. In Maryland, the Department of the Environment (MDE) has been working diligently to put this program in place.

Through the ECO program, automobile exhaust emissions will be reduced, concomitantly reducing the degree of ozone pollution. The Baltimore metropolitan region is one of eight metropolitan areas in the country with an ozone pollution classification of "severe" or worse (the classification for Los Angeles is "extreme"). As a result, counties in the Baltimore metro area are included in the ECO program.

Cecil County is not considered part of the Baltimore metropolitan region. Years ago, the U.S. Census Bureau placed us in the Wilmington (Delaware) metro area. Later, the Census Bureau grouped Wilmington with Philadelphia and Trenton, New Jersey, not unlike the way Baltimore is now grouped with Washington, D.C. However, these areas were defined for demographic purposes; the "groupings" have nothing to do with air pollution.

Reply To: County Administrator's Office
(410) 996-5204

The Honorable William Donald Schaefer
Governor, State of Maryland
Page -2-

Philadelphia, like Baltimore, has been labeled as having a "severe" ozone problem. By virtue of our inclusion in the Philadelphia/Wilmington/Trenton region, Cecil County has been designated by MDE as the only County outside of the Baltimore area that must comply with the ECO program. Oddly enough, Maryland counties in the Washington area are not included, since Washington's ozone problem is only "serious" and not "severe."

Our Office of Planning & Zoning has worked cooperatively with MDE staff on these regulations for the past year. MDE staff has also been very responsive to the questions and concerns raised by businesses here in Cecil County. However, research has brought us to the conclusion that the ECO program will have a negligible impact on air quality in Cecil County.

The ECO program impacts employers with 100 or more workers at a worksite. There are over 1,700 such employers with nearly 600,000 employees in the Baltimore area. About 480,000 of these workers will be affected by the program (the balance working on second and third shifts will not be impacted). In Cecil County, around 18 such employers with 5,000 employees, with 3,700 workers on the first shift will be affected.

If every employer here were to achieve full compliance, it's estimated that the number of cars on the road would be reduced by just over six hundred for the entire County. Moreover, since it is very unlikely that full compliance will be reached, the actual number of cars taken off the road will almost certainly be less. Thus, it is the county government's opinion that the resulting impact will be minimal, at best.

Moreover, to achieve even as small of an impact as this will still prove to be a difficult and costly challenge. We do not have any form of mass transit to substitute for the automobile. As you know, Cecil County is primarily rural in nature. This makes public transportation exceptionally expensive and impractical.

If we were contributing to the ozone pollution problem, we would gladly do our part. But a review of the air pollution data indicates that the ozone levels in Cecil County have never registered a number that merits the "severe" label. On only a handful of occasions has the Cecil County monitoring station registered a reading of "serious", and we venture to guess that the 60,000 cars that daily traverse I-95 are the primary cause of those readings, not the intra-county traffic on local roads.

The Honorable William Donald Schaefer
Governor, State of Maryland
Page -3-

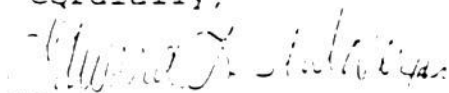
In summation, we wish to reiterate several points:

- Cecil County has been lumped in with the Philadelphia area by definitions that have nothing to do with air quality;
- The number of employers impacted by the ECO program is so small that any substantive improvement in air quality would be negligible, and possibly not even measurable;
- The cost to Cecil County employers for compliance with this regulation will be costly. MDE staff has estimated it to be as high as \$750,000, annually;
- Lastly, only you can help us with this situation.

According to the provisions of the Clean Air Act, the Governor may submit a request to the Administrator of the Environmental Protection Administration (EPA) to exclude a "portion" of a metropolitan area where "sources in the portion do not contribute significantly to violation of the National ambient air quality standard." The EPA will have the final word, but the request may only come from the Governor of the state [Sec. 107(d)(4)(D)(v)]. We ask that you make that request.

Commissioners Cole, Cleek and Abbott respectfully request your serious consideration of this matter. The county government is prepared to work with MDE staff to do whatever is necessary to assist with such a request to the EPA.

Cordially,



Edward L. Sealover
County Administrator

ELS/ur

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

2

EPA believes Cecil County was correctly designated a severe ozone nonattainment area. EPA remains committed to continue to assist the Maryland Air and Radiation Management Administration in meeting the severe ozone nonattainment requirements set forth in the Act. If we can be of further assistance, please feel free to contact Thomas J. Maslany, Director, Air, Radiation and Toxics Division, at (215) 597-9390.

Sincerely,

Stanley L. Laskowski
Acting Regional Administrator

MDCECILR.EDE Stahl Disc 10/22/93 CONCURRENCES						
SYMBOL	3AT13	3AT13	3AT10	3AT00	3EA10	3RA00
SURNAME	STAHL	ARNOLD	SPINK	MASLANY	WELSH	LASKOWSKI
DATE	10/22/93	10/28/93	10/28/93	10/28/93	10/28/93	10/28/93

EPA Form 1320-1 (12-70)

for 11/1 10/2

OFFICIAL FILE COPY

**CONTROLLED CORRESPONDENCE
FROM THE
GOVERNMENT AFFAIRS BRANCH**

CONTROL NUMBER: **AL9304353**

RECEIVED FROM/RESPOND TO:

Honorable Robert S. Walker
House of Representatives
Washington, D.C. 20515

Dear Mr. Walker:

SUBJECT: Clean Air Act/Reclassify Philadelphia Area
CONSTITUENT:

RECEIVED IN GAB: 10/22/93

DATE DUE IN GAB: 11/02/93

DATE SIGNED: **NOV 01 1993**

REFERRED ONLY TO THE DIVISION POC IN BOLD PRINT ON: 10/25/93
Air, Radiation and Toxics Division (Dottie Todd)

Chesapeake Bay Program (Kim Lonasco)

Environmental Services Division (Gayl Solomon)

Hazardous Waste Management Division (Alicia Walls)

Office of External Affairs (Angela Cochnar) - Don Welsh

Office of Policy and Management (Marie Owens)

Office of Regional Counsel (Geri DiSantis)

Water Management Division (Louvinia Madison-Glenn)

SPECIAL INSTRUCTIONS: When responding to correspondence controlled to the Region from headquarters, please state (in the first paragraph of the response) that we are responding on behalf of headquarters.

5
CONTROL SLIP FOR OFFICE OF CONGRESSIONAL CORRESPONDENCE

CONTROL NO : AL9304353

DUE DATE: 11/02/93

FROM : WALKER, ROBERT S R/PA
COMMITTEE ON
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

CORRES. DATE: 10/13/93

RECEIVED: 10/19/93

ASSIGNED: 10/19/93

SALUTATION : DEAR CONGRESSMAN WALKER:

CLOSED : / /

CONSTITUENT :

SUBJECT : CLEAN AIR ACT/RECLASSIFY THE PHILADELPHIA AREA AS "SERIOUS"
NON-ATTAINMENT AREA

SIGNATURE : REGIONAL ADMINISTRATOR

COURTESY COPIES:

ADMINISTRATOR
OAR

DEPUTY ADMINISTRATOR
OCLA/HICKMOTT

ASSIGNED : REGION 03

INSTRUCTIONS: SEND "HARD" COPY OF REPLY ALONG WITH ORIGINAL CONTROL SLIP
TO MYRTLE LASHLEY (1301) HEADQUARTERS.

IMS: MDL

ROBERT S. WALKER
16TH DISTRICT, PENNSYLVANIA
CHIEF DEPUTY REPUBLICAN WHIP

COMMITTEE:
REPUBLICAN CHAIRMAN
SCIENCE, SPACE, AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, DC 20515-3816
October 13, 1993

AL 9304353

STAFF IN CHARGE:
CONNIE L. THUMMA
WASHINGTON OFFICE
MARC T. PHILLIPS
DISTRICT OFFICES

5

RB
AD
DA
OAR
OCC/12
RA

The Honorable Carol M. Browner
Administrator
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dear Ms. Browner:

I am writing to bring to your attention a problem which affects a number of my constituents who reside in Chester County, Pennsylvania.

As you know, when Congress passed the Clean Air Act in 1990, the five-county area surrounding Philadelphia, including Chester County, was classified as a "severe non-attainment" area. Such an area is required to develop an Employee Trip Reduction Program (ETRP) as one step in working towards attainment. The Clean Air Act also gave the governor of each state the ability to request reclassification within the non-attainment designation. After December 31, 1990, the governors have no such power.

The EPA turned down Governor Robert Casey's December 1990 request to reclassify the area from "severe" to "serious." However, I would like to bring to your attention two studies which argue that the factors upon which the classification decision was based were flawed. First, the Environmental Resources Management (EMI) organization concluded that the data used was invalid. Second, Systems Applications International (SAI) also determined that EPA was mistaken and there is a high probability that the region can reach attainment by 1999, without the implementation of an ETRP. Enclosed please find both studies.

Accordingly, I would like to take this opportunity to express my interest on behalf of my constituents and to request that you consider the results of the two reports. In addition, please take advantage of your power under Section 110(k)(6) of the Clean Air Act of 1990, to revise the action of the EPA and reclassify the Philadelphia Area as a "serious" non-attainment area.

Thank you for your cooperation in this regard. I will look forward to hearing from you at your earliest opportunity.

Cordially,



Robert S. Walker

gg
Enclosure





Date: October 5, 1993

Contact: Liz Ferry, Project Manager
(215) 972-3950

For Immediate Release:

**Business Coalition Calls for Change in Air Quality Classification:
Studies Show Philadelphia Region Air Improving**

The PENJERDEL Employer Trip Reduction Coalition released the results of two separate studies evaluating EPA's classification of the Philadelphia region as "severe" nonattainment for ozone.

Some 250 local business leaders have come together as the Employer Trip Reduction Coalition. The goal of the ETR Coalition is to make known the erroneous classification as well as raise awareness of burdensome ETRP regulations imposed on commuters and businesses that will result from the incorrect classification.

"Our Coalition wants the cleanest air possible for Philadelphia and its surrounding communities and, as these studies show, the Delaware Valley is well on its way to reaching that goal," said Henry H. Reichner, Senior Director, The PENJERDEL Council. "ETRP regulations, which are costly and have a questionable impact on air quality, just aren't appropriate for the Philadelphia region."

In order to contest the "severe" nonattainment classification and pursue a downgrade to "serious" nonattainment, the PENJERDEL Council has helped coordinate this coalition of concerned businesses in the region. The coalition has sponsored additional studies of the process determining Philadelphia's "severe" nonattainment classification.

Today's release is a culmination of three months of technical study and review. The studies were conducted by Environmental Resources Management, Inc., (ERM) and Systems Applications International, Inc., (SAI).

The Coalition asserts that one suspect reading taken at the Chester, Pennsylvania station has skewed the results giving the Philadelphia region an inaccurate high classification. The results of the Coalition studies support this assertion – the September 11, 1989 0.187 parts per million (ppm) Chester Station reading is not an accurate indicator of the region's air quality. Furthermore, the study indicates that the region will reach attainment by 1999, the date set by EPA for those areas in a "serious" classification.

THE PENJERDEL COUNCIL



**CRITICAL EVALUATION OF THE DAILY
MAXIMUM OZONE DESIGN VALUE
MEASURED AT CHESTER, PENNSYLVANIA
ON 11 SEPTEMBER 1989**

The PENJERDEL Council

Prepared by
Environmental Resources Management
855 Springdale Drive
Exton, Pennsylvania 19341



Date: October 5, 1993

Contact: Liz Ferry, Project Manager
(215) 972-3950

For Immediate Release:

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

OCT 27 1993

James M. Salvaggio, Director
Bureau of Air Quality
Pennsylvania Department of Environmental Resources
P.O. Box 8468
Harrisburg, Pennsylvania 17105-8468

Dear Mr. Salvaggio:

This letter is in reply to your September 21, 1993 request that EPA respond to a report forwarded to the Pennsylvania Department of Environmental Resources (PADER) by PenJerDel, dated September 16, 1993, on the Philadelphia-Wilmington-Trenton ozone nonattainment area, commonly referred to as the Philadelphia area.

PenJerDel's report concludes that the Philadelphia ozone nonattainment area does not need to implement the Employer Trip Reduction (ETR) program because the area was incorrectly classified as severe based on an unreliable monitored ozone reading in Chester, Pennsylvania on September 11, 1989. According to PenJerDel, this monitored value should have been discarded because of traffic congestion on the day in question. PenJerDel also concludes that the next highest monitored ozone exceedance was in the serious nonattainment range, not severe. PenJerDel implicitly questions EPA's methodology on how ozone design values are calculated and offers other statistical tests to show that, using these other tests, the design value would not be in the severe nonattainment range. In support of a lower classification of "serious" for the Philadelphia nonattainment area, PenJerDel also asserts that the Philadelphia area can attain the ozone standard by November 15, 1999, which is the statutory deadline for serious ozone nonattainment areas.

EPA has evaluated the PenJerDel report and determined that the facts do not support its conclusions. In the first instance, traffic congestion in the area of a monitor typically results in localized decreased ozone monitored values because of increased nitrogen oxide formation which scavenges ozone. Ozone formation is a gradual process which would not be expected to occur at the site of the generation of the precursors, but instead, downwind from that site. Therefore, increased emissions from vehicle traffic around the Chester monitor might be expected to result in increased ozone readings at monitors downwind from Chester but not at the Chester monitor itself.

2007 7 & 100

Secondly, the monitors in the Philadelphia nonattainment area all showed monitored values in approximately the same range, during the three year period between 1987 and 1989, with exceedances ranging from 0.140 ppm to 0.249 ppm. In fact, the next highest monitoring-site design value in the Philadelphia nonattainment area was at Lums Pond. That value was 0.180 ppm which was also in the severe nonattainment range, not in the "serious" range as claimed by PenJerDel. With specific regard to September 11, 1989, it should be noted that the peak ozone values at the other monitors in the Philadelphia nonattainment area were recorded at the same time as the Chester monitor's peak value.

Thirdly, section 181(a)(1) of the 1990 Clean Air Act requires design values to be calculated in accordance with EPA's methodology most recently issued before November 15, 1990. This methodology is that described in the June 18, 1990 memorandum from William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors. This specific methodology has been used in calculating ozone design values since 1987. The final rulemaking on the designation and classification of areas published in the Federal Register on November 6, 1991 used the methodology described in the June 1990 memorandum to determine ozone design values and to classify areas with respect to ozone.

Finally, the data on vehicle miles traveled (VMT) show a growing trend in this emission indicator. EPA finds no reliable basis for concluding that the Philadelphia area can attain the ozone standard by 1999.

EPA has found no reason to conclude that an error was made in classifying the Philadelphia ozone nonattainment area as severe. Consequently, section 110(k)(6) of the Clean Air Act, which authorizes the Agency to correct errors in the classification or reclassification of areas, cannot serve as a basis for reclassifying Philadelphia from severe to any other ozone classification. It should also be noted that although the final rulemaking action classifying the area was promulgated on November 6, 1991, no petitions for reconsideration were filed under the Administrative Procedures Act, nor were any comments filed suggesting changes to the final action as explained in the final rulemaking notice.

Thus, the Philadelphia ozone nonattainment area will continue to be classified as severe and, the ETR program, as well as all other Clean Air requirements for severe ozone nonattainment areas, will continue to be required for the

Philadelphia area. EPA continues to support the Commonwealth in the development of all programs needed to attain and maintain the ozone standard in the Philadelphia severe ozone nonattainment area, including stationary, mobile and area source measures. If you have any questions about our analysis, please contact Ms. Marcia L. Spink, Chief, Air & Radiation Programs Branch at (215) 597-4713.

Sincerely,


Thomas J. Maslany, Director
Air, Radiation & Toxics Division

BCC:

Darryl Tyler
Merrylin Zaw-Mon
Robert Ostrowski
William Baker - Reg 2
Michael Shapiro
Richard Ossias
Thomas Helms
John Silvasi
David Cole
Thomas Curran
William Hunt
Richard Wilson
John Seitz
Elizabeth Thompson
Howard Hoffman

IN HOUSE:

Judy Katz
Richard Kampf
Janet Viniski
Don Welsh
Bob Kramer
David Arnold
Marcia Spink

FAX TO:

John Salvaggio
Glenn Hanson
Ron Roggenburk - DVRPC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

3

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Sincerely,

Thomas J. Maslany, Director
Air, Radiation & Toxics Division

H: /GROUP/3AT13:PAPENJER.LTR:10/26/93							
CONCURRENCES							
SYMBOL	3AT13	3AT13 <i>Prop</i>	3AT10	3AT00			
SURNAME	STAHL	ARNOLD	SPINK	MASLANY			
DATE	<i>10/24/93</i>	<i>10/27/93</i>	<i>10/27/93</i>	<i>10/27/93</i>			

EPA Form 1320-1 (12-70)

OFFICIAL FILE COPY

OFFICE OF REGIONAL ADMINISTRATOR
INTEROFFICE ROUTE SLIP

7/5/91 3RA-

David A.
6999

☒ THIS ITEM IS BEING TRACKED IN THE FRONT OFFICE
ACTION DUE BY 7/9/91

Cynthia
F.Y.F.

ACTION FYI

- | | | | |
|-------------------------------------|-------------------------------------|--------------------------------------|--------------|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | REGIONAL ADMINISTRATOR (3RA00) | _____ |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | DEP REGIONAL ADMINISTRATOR (3DA00) | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | EXECUTIVE ASSISTANT TO RA (3RA00) | _____ |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | AIR, RAD AND TOXICS DIVISION (3AT00) | Marcia Spink |
| <input type="checkbox"/> | <input type="checkbox"/> | ENV SERVICES DIVISION (3ES00) | _____ |
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| <input type="checkbox"/> | <input type="checkbox"/> | WATER MGMT DIVISION (3WM00) | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | REGIONAL COUNSEL (3RC00) | _____ |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | EXTERNAL AFFAIRS (3EA00) | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | CHES BAY PROGRAM OFFICE (3CB00) | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

ACTION NEEDED

- ☐ PREPARE REPLY FOR SIGNATURE OF _____
- ☒ REVIEW AND TAKE ACTION AS APPROPRIATE
- ☐ REVIEW AND DISCUSS WITH RA
- ☐ CALL _____
- ☐ COORDINATE WITH _____
- ☐ ADVISE _____
- ☐ NOTIFY FRONT OFFICE WHEN ACTION IS COMPLETED
- ☐ FORWARD COPY OF RESPONSE TO FRONT OFFICE - PLEASE NOTE CONTROL NUMBER ON COPY
- ☐ _____

REMARKS:

RECEIVED
Air Programs Branch**JUL 5 1991****EPA. REGION III**WALLACE E. REED, CHAIRMAN
CHARLOTTESVILLETIMOTHY E. BARROW,
VICE CHAIRMAN
VIRGINIA BEACHSAM C. BROWN, JR.
VIRGINIA BEACHFRANCES C. KIEFFER
FAIRFAX**COMMONWEALTH of VIRGINIA**

Department of Air Pollution Control

ROOM 601, NINTH STREET OFFICE BUILDING

POST OFFICE BOX 10089

RICHMOND, VIRGINIA 23240

(804) 786-2378

FAX # (804) 225-3933

TDD # (804) 371-8471

FACSIMILE TRANSMISSIONWALLACE N. DAVIS
EXECUTIVE DIRECTOR**RECEIVED****JUL 5 1991**Date: 7/3/91 **AIR, RADIATION & TOXICS**
Division

Please deliver the following page (s) to:

Name: Edwin B. EricksonLocation: Region III

These pages are from:

Name: Wallace N. DavisLocation: DAPETotal number of pages including this cover letter: 10

We are transmitting from a Sharp FO-700, with Group 1, 2 & 3 capability.

If you do not receive all the pages, please call: 804 786-8775Office Phone Number: 804-786-1454 (off SCATS)
786-1454 (SCATS)Facsimile Number: 804-225-3933 (off SCATS)
225-3933 (SCATS)

WALLACE E. REED, CHAIRMAN
CHARLOTTESVILLE

TIMOTHY E. BARROW,
VICE CHAIRMAN
VIRGINIA BEACH

SAM C. BROWN, JR.
VIRGINIA BEACH

FRANCES C. KIEFFER
FAIRFAX



COMMONWEALTH of VIRGINIA

Department of Air Pollution Control

ROOM 801, NINTH STREET OFFICE BUILDING

POST OFFICE BOX 10089

RICHMOND, VIRGINIA 23240

(804) 786-2378

FAX # (804) 225-3933

TDD # (804) 371-8471

WALLACE N. DAVIS
EXECUTIVE DIRECTOR

July 1, 1991

MEMORANDUM

TO : Northeast Ozone Transport Commission

FROM : Wallace N. Davis *WND*

SUBJECT : Stationary Source and Area Source Strategy Development Committee,
First Meeting, June 20, 1991

The first meeting of the Stationary Source and Area Source Strategy Development Committee was held by conference call on June 20, 1991 to begin to discuss and come to a consensus on the items listed below.

A report of the meeting is attached identifying the issue and action of the committee. The committee developed specific proposals for decision by the Commission for those items denoted by an asterisk (*).

- * Stationary Source Fees
- * EPA Operating Permit Proposal
- + Fee Differentials (VOC and NO_x)
- + CTG RACT Exemption Levels
- + Major Source Definition (non-CTG and new source review)
- * Area Source Controls
- + New Source Review Offset Ratio

Of critical importance is the recommendation regarding the EPA operating permit proposal; Commission members should contact Bob Perciasepe as soon as possible with any comments on this matter since comments must be received by EPA by COB July 9, 1991.

Should you have any questions or comments, feel free to contact me or any member of the committee.

WND/RAM/ram
Attachment

cc: Stationary Source and Area Source Strategy Development Committee

NORTHEAST TRANSPORT COMMISSION
STATIONARY SOURCE AND AREA SOURCE
STRATEGY DEVELOPMENT COMMITTEE

MEETING OF JUNE 20, 1991

The first meeting of the committee was held via conference call on June 20, 1991 at 10:00 a.m. with representatives of the following states and organizations participating: Rhode Island, District of Columbia, Maine, Maryland, Vermont, Virginia, and EPA Regions I, II, and III. After roll call, the issues identified below were discussed and action agreed to as noted.

STATIONARY SOURCE FEES

Issue: Whether the Committee should forward to the Commission for approval a memorandum of understanding (MOU) to encourage the states to move ahead as expeditiously as possible to gain legislative authority to adopt a fee program. The intent being that the states need to move ahead of the time frames in the Clean Air Act in order to gain start-up funds to implement the fee program mandated by the Act.

Action: The Committee agreed to the document as presented except that it should be a resolution not a MOU and a provision should be added to encourage EPA to move ahead as expeditiously as possible to finalize the fee program. The resolution agreed to is attached as Enclosure I and is recommended for action by the Commission.

EPA OPERATING PERMIT PROPOSAL

Issue: Whether the Committee should forward to the Commission for approval an affirmation of the June 5, 1991 testimony of NESCAUM on the EPA operating permit proposal.

Action: The Committee favored many of the positions in the testimony but there was some disagreement on some key issues. In view of this the Committee agreed to draft its own positions, a copy of which is attached as Enclosure II and is recommended for action by the Commission.

FEE DIFFERENTIAL

Issue: Whether the Committee should forward to the Commission for approval a strategy to encourage states to adopt a fee differential for pollutants the reduction of which are key to achieving attainment. The intent being to charge a higher fee for these pollutants and, thus, provide an added emission reduction incentive for the regulated community.

Action: The Committee felt that this matter should be left to the individual states and that the Commission should take no position on this matter.

CTG RACT EXEMPTION LEVELS

Issue: Whether the Committee should forward to the Commission for approval a strategy that called for lowering the regulatory exemption thresholds to an emissions level below that required by EPA policy for sources covered by the CTG guidelines.

Action: The Committee felt that this was a potential control strategy but that it should be given more study in relationship to the mobile source control program and the relevant benefit of this option toward achieving attainment throughout the transport region.

MAJOR SOURCE DEFINITION

Issue: Whether the Committee should forward to the Commission for approval a strategy that called for lowering the regulatory exemption thresholds to an emissions level below that required by the Act for major sources subject to new source review and not covered by the CTG guidelines.

Action: The Committee felt that this was a potential control strategy but that it should be given more study to determine the relevant benefit of this option toward achieving attainment throughout the transport region.

AREA SOURCE CONTROLS

Issue: Whether the Committee should forward to the Commission for approval a resolution to encourage EPA to move ahead as expeditiously as possible to promulgate strategies to control area sources because of the large contribution of these source types to the overall ozone attainment problem.

Action: The Committee agreed to the resolution, a copy of which is attached as Enclosure III and is recommended for action by the Commission.

NEW SOURCE REVIEW OFFSET RATIO

Issue: Whether the Committee should forward to the Commission for approval a strategy that called for lowering the regulatory offset ratio to a level below that required by the Act for major sources subject to new source review.

Action: The Committee felt that this was a potential control strategy but that it should be given more study to determine the relevant benefit of this option toward achieving attainment throughout the transport region.

ENCLOSURE I

RESOLUTION OF THE
NORTHEAST OZONE TRANSPORT COMMISSION
CONCERNING
PERMIT FEES FOR STATIONARY SOURCES

WHEREAS, the Northeastern United States is faced with a regionwide ozone nonattainment problem; and

WHEREAS, the Congress of the United States of America, in recognition of the ozone problem in the northeastern United States, created, by the Clean Air Act Amendments of 1990, the Ozone Transport Region and established an Ozone Transport Commission to assess the degree of interstate transport of ozone throughout the region and to assess and recommend strategies to ensure that applicable State Implementation Plans provide for attainment; and

WHEREAS, the Clean Air Act Amendments of 1990 impose significant additional air pollution control requirements throughout the ozone transport region including controls on stationary sources of air pollution; and

WHEREAS, all member states and the District of Columbia must retain additional staff to meet the requirements of the Clean Air Act Amendments of 1990; and

WHEREAS, the Clean Air Act Amendments of 1990 create a new national permit program under the provisions of Title V that

imposes specific minimum fees on emissions from all stationary sources; and

THEREFORE BE IT RESOLVED, that the U.S. Environmental Protection Agency act expeditiously in the finalization of its permit fee regulations and that the member states and the District of Columbia agree to move as expeditiously as possible to obtain any legislative authority needed to adopt fee requirements for stationary sources to provide for the development of consistent stationary source programs in each state and the District.

I:\DPD\TRAN-REG\RES-FEE

ENCLOSURE II

POSITION OF
NORTHEAST OZONE TRANSPORT COMMISSION
CONCERNING
EPA'S OPERATING PERMIT PROPOSAL

Preemption of State's Rights

EPA should not preempt state authority with respect to permit requirements but states should be allowed to be more stringent in all aspects of the permit conditions, including administrative requirements.

Operating FlexibilityPermit Shield

EPA is making a major shift in the basic concept of the operating permit by stating in its operational flexibility provisions that any change to a source's operation that is not included in an operating permit or explicitly excluded from an operating permit is allowed. This inappropriately extends the permit shield provisions of the Act in a way not intended by Congress. The source should continue to be expected to comply with all applicable existing state and federal regulations whether or not they are explicitly mentioned in the permit.

Minor Permit Amendments

EPA is adding a completely unrealistic requirement which States will not be able to implement in allowing, in its minor modification provision, source changes to be made with only a seven day notification period and response by a permitting authority. Instead preconstruction review should be required for any modification that would increase emissions above the allowable levels; this review would take much longer than seven days.

Relationship Between State Implementation Plans and Operating Permits

EPA backs away from making a decision on the relationship between an operating permit and the State Implementation Plan (SIP). Operating permits should stand on their own; the SIP should be used as a baseline of the requirements to be included in the operating permits.

Determination of Permit Fees

EPA should not mandate the basis for permit fees. States should be allowed to use allowable, or any other emissions, as the basis for calculating permit fees.

Definition of Complete Application

EPA is imposing an unrealistic time period for initial review of applications. States should be allowed to use a time period commensurate with its own permit processing procedures, instead of 30 days, to review and notify a source of the completeness of its application.

I:\DPD\TRAN-REG\POS-OPER

ENCLOSURE III

RESOLUTION OF THE
NORTHEAST OZONE TRANSPORT COMMISSION
CONCERNING
AREA SOURCE CONTROL STRATEGIES

WHEREAS, the Northeastern United States is faced with a regionwide ozone nonattainment problem; and

WHEREAS, the Congress of the United States of America, in recognition of the ozone problem in the northeastern United States, created, by the Clean Air Act Amendments of 1990, the Ozone Transport Region and established an Ozone Transport Commission to assess the degree of interstate transport of ozone throughout the region and to assess and recommend strategies to ensure that applicable State Implementation Plans provide for attainment; and

WHEREAS, the Clean Air Act Amendments of 1990 impose significant additional air pollution control requirements throughout the ozone transport region including controls on stationary sources and mobile sources of air pollution; and

WHEREAS, controls on stationary sources and mobile sources are likely to be insufficient to achieve attainment throughout the Ozone Transport Region; and

WHEREAS, the member states and the District of Columbia lack the necessary resources and technical expertise to develop some

areas source controls; and

THEREFORE BE IT RESOLVED, that the U.S. Environmental Protection Agency is requested to move as expeditiously as possible to develop regulatory programs and guidance to assist the member states and the District of Columbia in developing area source control strategies.

I:\DPD\TRAN-REG\RES-AS



THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

SHARON PRATT DIXON
MAYOR

27117

RECEIVED

APR 11 1991

OFFICE OF THE
CHIEF OF POLICE

Edwin B. Erickson
Regional Administrator
United States Environmental Protection Agency
Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

Dear Mr. Erickson:

In response to your January 30, 1991, letter to me and pursuant to the requirements of Section 176A of the Clean Air Act regarding Interstate Transport Commissions, this is to notify you of the representatives for the District of Columbia on the Northeast Ozone Transport Commission. Mr. Lacy C. Streeter, Acting Director of the Department of Consumer and Regulatory Affairs, will serve as my designee and Dr. Joseph K. Nwude, Chief of the Air Quality Control and Monitoring Branch, of our Environmental Control Division will serve as the District's air pollution control official.

We look forward to actively participating in this commission and pledge our best efforts to improving the air resources of the District and the rest of the Northeast Ozone Transport Region.

If we can be of further assistance regarding this matter, please contact Mr. Streeter on (202) 727-7120, and thank you for your continued cooperation.

Sincerely,

Sharon Pratt Dixon
Mayor

OFFICE OF REGIONAL ADMINISTRATOR
INTEROFFICE ROUTE SLIP

copy to
2/26 3RA- 5849

☐ This item is being tracked in Front Office.
Action due by _____.

ACTION	FYI	ATTENTION
<input type="checkbox"/>	<input checked="" type="checkbox"/>	REGIONAL ADMINISTRATOR(3RA00)
<input type="checkbox"/>	<input type="checkbox"/>	DEP REGIONAL ADMINISTRATOR(3DA00)
<input type="checkbox"/>	<input type="checkbox"/>	EXECUTIVE ASSISTANT TO RA(3RA00)
<input type="checkbox"/>	<input type="checkbox"/>	SPECIAL ASSISTANT TO DRA(3DA00)
<input type="checkbox"/>	<input type="checkbox"/>	ASST REGIONAL ADMINISTRATOR(3PM00)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	AIR MGMT DIVISION(3AM00)
<input type="checkbox"/>	<input type="checkbox"/>	ENV SERVICES DIVISION(3ES00)
<input type="checkbox"/>	<input type="checkbox"/>	HAZ WASTE MGMT DIVISION(3HW00)
<input type="checkbox"/>	<input type="checkbox"/>	WATER MGMT DIVISION(3WM00)
<input type="checkbox"/>	<input type="checkbox"/>	REGIONAL COUNSEL(3RC00)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EXTERNAL AFFAIRS(3EA00)
<input type="checkbox"/>	<input type="checkbox"/>	_____

RECEIVED
Air Programs Branch

MAR 1 1991

EPA, REGION III

ACTION NEEDED

- ☐ Prepare reply for signature of _____
- ☐ Review and take action as appropriate
- ☐ Review and discuss with RA
- ☐ Call _____
- ☐ Coordinate with _____
- ☐ Advise _____
- ☐ Notify Front Office when action is completed.
- ☐ Forward copy of response to Front Office-Please note control number on copy.

REMARKS: _____



COMMONWEALTH of VIRGINIA

Elizabeth H. Haskell
Secretary of Natural Resources

Office of the Governor
Richmond 23219

(804) 786-0044
TDD (804) 786-7765

February 12, 1991

Mr. Edwin B. Erickson
Regional Administrator
United States Environmental Protection Agency
Region III
841 Chestnut Building
Philadelphia, PA 19107

Dear Ted:

On behalf of Governor Wilder, thank you for your letter of January 30, 1991 concerning the Clean Air Act Amendments of 1990. You can be assured that Virginia will perform to the best of her ability to meet the new requirements and schedules.

Regarding the designations of ozone and carbon monoxide nonattainment areas in the Commonwealth and their boundary descriptions, the Department of Air Pollution Control will provide that information to the EPA Region III office by the deadline date, March 15, 1991.

In addition, you will be notified of the representatives from Virginia to serve on the Northeast Ozone Transport Region and Commission by March 1, 1991.

Again, thank you for your letter. The Commonwealth is committed to achieving the challenges presented by the Clean Air Act Amendments of 1990 in the timeframes specified and looks forward to working with EPA Regional and Headquarter officials to achieve those goals.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth".

Elizabeth H. Haskell

cc: The Honorable Lawrence Douglas Wilder
Wallace N. Davis

OFFICE OF REGIONAL ADMINISTRATOR
INTEROFFICE ROUTE SLIP

DEW 3/8 3RA- 5902

David
Cyprien

☐ This item is being tracked in Front Office.
Action due by _____.

<u>ACTION</u>	<u>FYI</u>	<u>ATTENTION</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	REGIONAL ADMINISTRATOR(3RA00)
<input type="checkbox"/>	<input type="checkbox"/>	DEP REGIONAL ADMINISTRATOR(3DA00)
<input type="checkbox"/>	<input type="checkbox"/>	EXECUTIVE ASSISTANT TO RA(3RA00)
<input type="checkbox"/>	<input type="checkbox"/>	SPECIAL ASSISTANT TO DRA(3DA00)
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<input type="checkbox"/>	<input type="checkbox"/>	ENV SERVICES DIVISION(3ES00)
<input type="checkbox"/>	<input type="checkbox"/>	HAZ WASTE MGMT DIVISION(3HW00)
<input type="checkbox"/>	<input type="checkbox"/>	WATER MGMT DIVISION(3WM00)
<input type="checkbox"/>	<input type="checkbox"/>	REGIONAL COUNSEL(3RC00)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	EXTERNAL AFFAIRS(3EA00)
<input type="checkbox"/>	<input type="checkbox"/>	_____

RECEIVED ACTION NEEDED
Air Programs Branch

MAR 12 1991

EPA. REGION III

- ☐ Prepare reply for signature of _____
- ☐ Review and take action as appropriate
- ☐ Review and discuss with RA
- ☐ Call _____
- ☐ Coordinate with _____
- ☐ Advise _____
- ☐ Notify Front Office when action is completed.
- ☐ Forward copy of response to Front Office-Please note control number on copy.

REMARKS: _____



COMMONWEALTH of VIRGINIA

Elizabeth H. Haskell
Secretary of Natural Resources

Office of the Governor
Richmond 23219

(804) 786-0044
TDD (804) 786-7765

February 28, 1991

Mr. Edwin B. Erickson
Regional Administrator
U. S. Environmental Protection Agency, Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

RECEIVED
FEB 28 1991
EDW B ERICKSON
OFFICE OF THE GOVERNOR

Dear Mr. Erickson:

This is in response to the January 30, 1991 letters to the Governor and myself requesting representatives for the Northeast Ozone Transport Commission. The Governor has asked that I respond and has indicated that I should be his designee on the commission, along with Wallace N. Davis, Executive Director of the Department of Air Pollution Control, as the air pollution control official.

We look forward to working with the other representatives on the commission and addressing the problems associated with bringing the northeast region into compliance with the ozone air quality standard. Should you have any questions, feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth H. Haskell".
Elizabeth H. Haskell

EHH/tas

cc: The Honorable Lawrence Douglas Wilder
Wallace N. Davis



STATE OF DELAWARE
OFFICE OF THE GOVERNOR

MICHAEL N. CASTLE
GOVERNOR

February 20, 1991

Mr. Edwin B. Erickson, Administrator
United States Environmental Protection Agency
Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

Dear Mr. ~~Erickson~~ *Ted*:

Responding to your letter of January 30 requesting the name of the Delaware representative to the Northeast Ozone Transport Region and Commission pursuant to the Clean Air Act Amendments of 1990, I am designating Mr. Philip G. Retallick, Director of the Division of Air and Waste Management, Department of Natural Resources and Environmental Control, as my designee. Please feel free to contact Mr. Retallick directly concerning any of the Commission's activities.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike".

Michael N. Castle
Governor

MNC/daf

cc Edwin H. Clark, II
Philip G. Retallick



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

Honorable Robert P. Casey
Governor of Pennsylvania
225 Main Capitol Building
Harrisburg, Pennsylvania 17120

JAN 15 1993

Dear Governor Casey:

The Clean Air Act, as amended in 1990 (CAA), establishes a number of new requirements that must be met by areas that are designated nonattainment for the criteria air pollutants ozone, carbon monoxide (CO) and/or particulate matter (PM-10) and areas that are part of the ozone transport region. In addition, every State was required to submit a small business assistance plan.

We commend the Department of Environmental Resources for the State Implementation Plan (SIP) elements that have been adopted and submitted to EPA. We consider these SIP submittals to be a high priority and will process them as quickly as possible.

While we recognize that Pennsylvania has made substantial progress in meeting its obligations under the CAA, not all of the SIP elements due by the major milestone date of November 15, 1992 have been submitted. For those SIP elements which are the subject of today's findings, this office intends to continue to work closely with the Department of Environmental Resources to undertake all necessary efforts to ensure their submittal as soon as possible in order to avoid the implementation of sanctions and the need to promulgate Federal Implementation Plans (FIPs).

By today's letter, EPA is notifying Pennsylvania that pursuant to section 179(a) EPA has made a finding of failure to make a submittal as to the nonattainment areas and programs or program elements identified in the enclosure to this letter. The enclosure lists the program areas for which SIP submittals were due for the particular areas in Pennsylvania by November 15, 1992 and indicates those programs and areas for which EPA is making a finding of failure to submit. In general, such findings are being made for programs or program elements for which the State failed to make any submittal or for which the Commonwealth did not adopt and subject to public hearing as required under sections 110(a)(2) and 110(1).

For most of the findings of failure to submit listed in the enclosure, if Pennsylvania has not made a complete submittal of the identified program(s) within 18 months of this letter, EPA will be mandated to use its authority under section 179(a) to impose at least one sanction identified in section 179(b) in the affected nonattainment area(s). EPA also has discretionary authority under section 110(m) to impose sanctions based on the

State's failure to make a required submittal. In addition, section 110(c) of the CAA provides that EPA promulgate a FIP no later than 2 years after a finding under section 179(a).

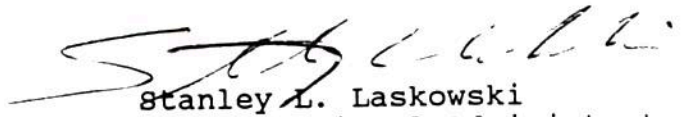
Those submittals that have been made are currently under review by EPA for completeness under section 110(k). In the event that any submittal is determined to be incomplete or not approvable, the sanctions and FIP processes will start at the time EPA makes its incompleteness determination or upon final disapproval.

Once EPA has made a finding of failure to submit a required plan or plan element, determined a submittal to be incomplete or disapproved a submitted plan, EPA will not impose mandatory sanctions if within 18 months after the date of the finding or disapproval EPA finds that the State has submitted a complete plan or, in the case of a disapproval, EPA takes final approval action on submitted corrections to the deficiencies for which the plan was disapproved. The EPA will not promulgate a FIP if the State cures the deficiency and EPA takes final action to approve the SIP within 2 years of EPA's finding.

I want to emphasize that the findings made imply no judgement as to State intent; they are merely statements of fact that EPA is required to make under the CAA. EPA takes very seriously its responsibility to administer the CAA in a fair and just manner, and those findings are an exercise of that responsibility.

I look forward to working closely with you and your staff to ensure that the CAA's requirements are met in a timely and effective manner without adverse consequences.

Sincerely yours,



Stanley L. Laskowski
Acting Regional Administrator

Enclosure

cc: Arthur A. Davis, Secretary
Pennsylvania Department of Environmental Resources

Catherine W. Cowan, Deputy Secretary
Air and Waste Management

James M. Salvaggio, Director
Bureau of Air Quality Control

ENCLOSURE

Provided below is a list of the State Implementation Plan (SIP) elements required to be submitted by November 15, 1992 under the Clean Air Act. Information regarding the applicability of the status of Pennsylvania's submittals is provided. Where EPA is making a finding under section 179(a) for the failure of Pennsylvania to make a submittal or for Pennsylvania's failure to submit a complete plan or plan element for the plans or plan elements, these findings trigger the 18-month clock for the mandatory imposition of sanctions under 179(a). If the State makes a complete submittal within that 18-month period, the sanctions clock will be stopped.

OZONE BASE YEAR EMISSION INVENTORY

Where required in the Commonwealth of Pennsylvania: The ozone nonattainment areas of Philadelphia, Pittsburgh, Reading, Allentown, Harrisburg, Sharon, Johnstown, Altoona, Erie, Scranton, York, and Lancaster.

Status of required submittal: Under section 182(a)(1), Pennsylvania was required to submit to EPA by November 15, 1992 a comprehensive, accurate, current inventory of actual emissions from all sources in all ozone nonattainment areas in accordance with guidance provided by EPA. Pennsylvania has submitted the point, area, mobile source, and biogenic ozone base year emission inventories, including documentation, for all the ozone nonattainment areas listed above.

EPA has received all elements required at this time pertaining to ozone base year emission inventories for the areas listed above.

CARBON MONOXIDE BASE YEAR EMISSION INVENTORY

Where required in the Commonwealth of Pennsylvania: The carbon monoxide nonattainment areas of Philadelphia County.

Status of required submittal: Under section 187(a)(1), Pennsylvania was required to submit to EPA by November 15, 1992 a comprehensive, accurate, current inventory of actual emissions from all sources in all carbon monoxide nonattainment areas in accordance with guidance provided by EPA. Pennsylvania has submitted the point, area, and mobile source carbon monoxide base year emission inventories, including documentation, for Philadelphia County.

EPA has received all elements required at this time pertaining to carbon monoxide base year emission inventories for Philadelphia County.

CARBON MONOXIDE ATTAINMENT DEMONSTRATION

No submittal is required for any area in the Commonwealth of Pennsylvania.

CONTINGENCY MEASURES

No submittal is required for any area in the Commonwealth of Pennsylvania.

VEHICLE MILES TRAVELED FORECASTS

No submittal is required for any area in the Commonwealth of Pennsylvania.

EMISSION STATEMENTS

Where required in the Commonwealth of Pennsylvania: The ozone nonattainment areas of Philadelphia, Pittsburgh, Reading, Allentown, Harrisburg, Sharon, Johnstown, Altoona, Erie, Scranton, York, and Lancaster and the remainder of the Commonwealth as part of the Ozone Transport Region.

Status of required submittal: Under sections 182(a)(3)(B), Pennsylvania must submit to EPA by November 15, 1992, a revision to the SIP to require that the owner or operator of each stationary source of oxides of nitrogen (NOx) or volatile organic compounds (VOC) provide the State with a statement showing the actual emissions from that source. Pennsylvania has submitted an emission statement regulation for the nonattainment areas listed above.

EPA has received all elements required at this time for an emission statements regulation for the areas listed above.

VOLATILE ORGANIC COMPOUND REASONABLY AVAILABLE CONTROL TECHNOLOGY CATCH-UPS

Where required in the Commonwealth of Pennsylvania: The ozone nonattainment areas of Philadelphia, Pittsburgh, Reading, Allentown, Harrisburg, Sharon, Johnstown, Altoona, Erie, Scranton, York, and Lancaster and the remainder of the Commonwealth as part of the Ozone Transport Region.

Status of required submittals: Under section 182(b)(2)(B) and (C) and 184(b), Pennsylvania was required to submit to EPA by November 15, 1992 a SIP revision demonstrating compliance with the requirements of the VOC reasonably available control technology (RACT) catch-up provisions. Pennsylvania has submitted regulations for VOC sources where EPA has already

issued Control Technique Guideline (CTG) documents located in the areas listed above. However, with the exception of Allegheny County (part of the Pittsburgh nonattainment area), Pennsylvania has not submitted the required RACT regulations for major VOC sources in other source categories (non-CTG). Pennsylvania has submitted a major source non-CTG regulation for parallel processing. This, however, does not satisfy the statutory requirement for a submittal.

Finding: EPA is today making a finding that Pennsylvania failed to submit the required RACT regulations for major non-CTG VOC sources for the entire Commonwealth of Pennsylvania, with the exception of Allegheny County.

OXIDES OF NITROGEN REASONABLY AVAILABLE CONTROL TECHNOLOGY RULES

Where required in the Commonwealth of Pennsylvania: The ozone nonattainment areas of Philadelphia, Pittsburgh, Reading, Allentown, Harrisburg, Sharon, Johnstown, Altoona, Erie, Scranton, York, and Lancaster and the remainder of the Commonwealth as part of the Ozone Transport Region.

Status of required submittal: Under section 182(f) and 184(b), Pennsylvania was required to submit as a SIP revision to EPA by November 15, 1992 reasonably available control technology (RACT) rules for major stationary sources of oxides of nitrogen (NOx) located in all ozone nonattainment areas classified moderate and above and for all areas in the ozone transport region, respectively. With the exception of Allegheny County (part of the Pittsburgh nonattainment area), Pennsylvania has not submitted NOx RACT regulations for any of the areas listed above. Pennsylvania has submitted a major source NOx RACT regulation for parallel processing. This, however, does not satisfy the statutory requirement for a submittal.

Finding: EPA is today making a finding that Pennsylvania failed to submit the required NOx RACT regulations for the entire Commonwealth of Pennsylvania, with the exception of Allegheny County.

OZONE NEW SOURCE REVIEW

Where required in the Commonwealth of Pennsylvania: The ozone nonattainment areas of Philadelphia, Pittsburgh, Reading, Allentown, Harrisburg, Sharon, Johnstown, Altoona, Erie, Scranton, York, Lancaster and the remainder of the Commonwealth as part of the Ozone Transport Region.

Status of required submittals: For ozone nonattainment areas and ozone transport regions, sections 182(a)(2)(C) and 184(b), respectively, require States to submit to EPA by November 15, 1992 new or augmented new source review (NSR) SIPs that meet the

provisions of Part D of Title I of the Clean Air Act. The Part D NSR permitting provisions applicable in ozone nonattainment areas and in the ozone transport region are generally in sections 172(c)(5), 173, 182 and 184 of the Clean Air Act. EPA has received those NSR-related SIP revisions due November 15, 1992, in accordance with guidance provided by EPA, for Allegheny County (part of the Pittsburgh nonattainment area). Pennsylvania has submitted a new source review regulation for parallel processing. This, however, does not satisfy the statutory requirement for a submittal.

Finding: EPA is today making a finding that Pennsylvania failed to submit those NSR-related SIP revisions due November 15, 1992, in accordance with guidance provided by EPA, for the areas listed above with the exception of Allegheny County.

PARTICULATE MATTER NEW SOURCE REVIEW

Where required in the Commonwealth of Pennsylvania: The PM-10 nonattainment areas of Allegheny County.

Status of required submittal: For moderate PM-10 nonattainment areas designated under section 107(d)(4)(B), section 189(a) requires States to submit to EPA by June 30, 1992 SIPs that meet the augmented new source review (NSR) provisions of sections 173 and 189 of the Clean Air Act. The Part D NSR permitting provisions applicable in PM-10 nonattainment areas are generally in sections 172(c)(5), 173, and 189 of the Clean Air Act.

EPA has received a NSR regulation pertaining to PM-10.

CARBON MONOXIDE NEW SOURCE REVIEW

No submittal is required for any area in the Commonwealth of Pennsylvania.

STAGE II

Where required in the Commonwealth of Pennsylvania: The ozone nonattainment areas of Philadelphia, Pittsburgh, and Reading.

Status of required submittal: Section 182(b)(3)(A) requires each ozone nonattainment area classified moderate and above to submit a revision to the applicable implementation plan, not later than November 15, 1992, to require all owners or operators of gasoline dispensing systems to install and operate a system for gasoline vapor recovery of emissions from the fueling of motor vehicles (Stage II). This requirement applies only to facilities which sell more than 10,000 gallons of gasoline per month or 50,000 gallons per month in the case of an independent small business

marketer. Pennsylvania has submitted a Stage II vapor recovery regulation for the Philadelphia, Pittsburgh and Reading nonattainment areas.

EPA has received Pennsylvania's Stage II regulation.

ENHANCED INSPECTION AND MAINTENANCE

Where required in the Commonwealth of Pennsylvania: The ozone nonattainment areas of the Philadelphia Consolidated Metropolitan Statistical Area (CMSA), Pittsburgh CMSA, Reading CMSA, Allentown Metropolitan Statistical Area (MSA), Harrisburg MSA, Sharon MSA, Johnstown MSA, Altoona MSA, Erie MSA, Scranton MSA, York MSA, Lancaster MSA and in applicable counties of the MSAs in the remainder of the Commonwealth as part of the Ozone Transport Region, with the terms CMSA and MSA as defined in 1990 by the Office of Management and Budget.

Status of required submittals: Under section 184(b)(1)(A), Pennsylvania was required to submit to EPA an enhanced inspection and maintenance (I/M) program or a commitment from the Governor or his designee committing to adopt an enhanced I/M program meeting the requirements of the I/M rule. Pennsylvania has not submitted a formal commitment to adopt an enhanced I/M program for the areas listed above.

Finding: EPA is today making a finding that Pennsylvania failed to submit a formal commitment to adopt an enhanced I/M program for applicable CMSAs and MSAs in the Commonwealth of Pennsylvania.

TRANSPORTATION CONTROL MEASURES TO OFFSET GROWTH IN EMISSIONS

Where required in the Commonwealth of Pennsylvania: Philadelphia ozone nonattainment area

Status of required submittals: Under section 182(d)(1)(A), Pennsylvania was required to submit to EPA by November 15, 1992 transportation control measures (TCMs) to reduce vehicle emissions or a commitment from the Governor or his designee to adopt such measures. Pennsylvania has not submitted a formal commitment to adopt TCMs for the Philadelphia nonattainment area.

Finding: EPA is today making a finding that Pennsylvania failed to submit a formal commitment to adopt transportation control measures which would reduce vehicle emissions in the Philadelphia nonattainment area.

EMPLOYER TRIP REDUCTION PROGRAM

Where required in the Commonwealth of Pennsylvania: Philadelphia ozone nonattainment area

Status of required submittals: Under section 182(d)(1)(B), Pennsylvania was required to submit to EPA by November 15, 1992 a plan establishing an employer trip reduction program for each nonattainment area subject to this provision. Pennsylvania has not submitted a program to establish an employer trip reduction program for the Philadelphia nonattainment area. Pennsylvania has submitted an employer trip reduction program for parallel processing. This, however, does not satisfy the statutory requirement for a submittal.

Finding: EPA is today making a finding that Pennsylvania failed to submit the required employer trip reduction program for the Philadelphia nonattainment area.

OXYGENATED FUELS

Where required in the Commonwealth of Pennsylvania: Pennsylvania portion of the Philadelphia CMSA which contains the carbon monoxide nonattainment area.

Status of required submittals: Under section 211(m), Pennsylvania was required to submit to EPA by November 15, 1992 an oxygenated fuels program. Pennsylvania has submitted a program for oxygenated fuels for the Philadelphia nonattainment area.

EPA has determined that an oxygenated fuel program for the Philadelphia nonattainment area has been submitted by Pennsylvania.

SMALL BUSINESS ASSISTANCE PLAN

Where required in the Commonwealth of Pennsylvania: The nonattainment areas of Philadelphia, Pittsburgh, Reading, Allentown, Harrisburg, Sharon, Johnstown, Altoona, Erie, Scranton, York, and Lancaster and the remainder of the Commonwealth.

Status of required submittals: Under section 507, Pennsylvania must submit to EPA by November 15, 1992 a revision to the SIP to establish a small business stationary source technical and environmental compliance assistance plan. This submission is expected to include the following three elements: the state office to serve as the Ombudsman; the small business assistance plan; and the compliance advisory panel. Pennsylvania has not submitted a plan for assisting small businesses. Pennsylvania has submitted a small business plan for parallel processing.

This, however, does not satisfy the statutory requirement for a submittal.

Finding: EPA is today making a finding that Pennsylvania failed to submit a small business stationary source technical and environmental compliance assistance plan for the Commonwealth of Pennsylvania. This finding does not trigger mandatory sanctions provisions of the CAA. EPA may, however, use its discretionary authority under section 110(m) to impose sanctions for failure to submit this plan.

OPTIONAL SUBSTITUTE FOR CLEAN FUEL FLEET PROGRAM

Where applicable in the Commonwealth of Pennsylvania:
Philadelphia ozone nonattainment area

Status: Section 246 requires Pennsylvania to submit a clean fuel fleet program by May 15, 1994. Section 182(c)(4)(B), however, allows Pennsylvania to opt out of the clean fuel fleet program, if Pennsylvania submits a commitment in writing to adopt an alternative program.

Pennsylvania has not submitted a written request to opt-out of the clean fuel fleet program for the Philadelphia nonattainment area. Therefore Pennsylvania will be required to implement the clean fuel fleet program in the Philadelphia nonattainment area. However, since this was not a required submittal, no sanctions and FIP obligations are triggered.

